



## NEEDS ASSESSMENT REPORT



# ENCLAVE

Enhancing the capacity of legal & justice  
professionals on forensic interview procedures  
for child victims and witnesses of violence



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2023

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## WP3. NEEDS ASSESSMENT REPORT

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## Contents

<b>Introduction .....</b>	<b>3</b>
<b>1. The Secondary Victimization of Minor Victims and Witnesses of Violence by the Criminal Justice System .....</b>	<b>3</b>
1.1 The need to enhance the capacity of legal and justice professionals involved in the CJS procedures in cases of minor victims and witnesses of violence .....	5
1.2 Promoting the need for full implementation of the Directive 2012/29/EU .....	7
<b>2. Methodological Approach – Process Review .....</b>	<b>8</b>
2.1 Follow – up of Interviews .....	8
2.2 Development of Benchmark Protocol: Good Practices, Malpractices & Minimum Standards for CJS procedures .....	9
2.3 Transnational Comparative Report & Policy Recommendations to ensure implementation of interviewing procedures & of Directive 2012/29/EU .....	9
2.4 Key pathways for a Training according to professionals engaged .....	10
<b>3. Overview of the existing situation: Gaps and Needs .....</b>	<b>10</b>
3.1 The Legal Framework .....	11
3.2 The Policies .....	16
3.3 Protocols and Guidelines .....	31
3.4 Training of professionals .....	43
3.5 Multi-agency cooperation .....	56
<b>Concluding Remarks .....</b>	<b>62</b>
<b>References .....</b>	<b>67</b>

## **Introduction**

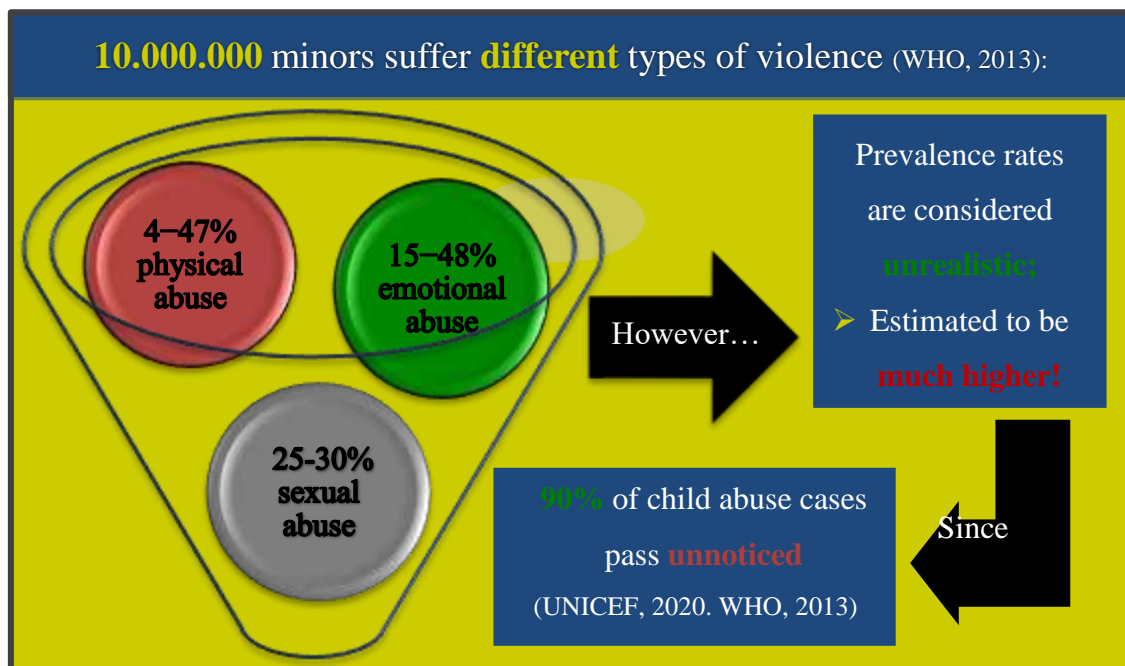
The high prevalence of minor victims and/or witnesses of violence concerns societies worldwide for many years. However, as the phenomenon of child abuse gains more and more attention, the legislations and scientific community focus increasingly on the re-traumatization of minors, especially when it derives from the Criminal Justice System. Despite these advancements and shifts, the secondary victimization of minor victims of violence is a reality, since in many cases the practice does not adequately meet their rights, interests and needs.

For that reason, in terms of the ENCLAVE Project, partners from Belgium, Estonia, Greece, Italy and Spain conducted research, through interviews and focus groups, in order to assess professionals' needs when working with minor victims/ witnesses of violence. The research was divided into two parts. Firstly, a literature review concerning the existing data, legislations, policies, protocols and guidelines, provided training and multi-agency cooperation in the participating countries and in Europe in general was conducted. At the same time, each country composed a report, demonstrating the existing national context and providing specific information about their countries (e.g. policy, legislation, and services). Secondly, all partners conducted interviews or focus groups with legal and justice professionals or forensic interviewers, to identify their knowledge, needs, challenges, experiences, institutional practices and protocols/tools, and level of existing collaboration. The results derived from the research were integrated into the analytical report on professional training needs, and the educational materials for professionals developed in the ENCLAVE Project. The key findings of the Transnational Comparative Report and the Benchmark Protocol Focus regarding the gaps and needs of professionals working with minor victims/witnesses of violence are also included and presented in this Needs Assessment Report.

### **1. The Secondary Victimization of Minor Victims and Witnesses of Violence by the Criminal Justice System**

According to the global estimates, ten millions of children in the Region is anticipated to be victims of different types of violence, as 4–47% of the minors is estimated to suffer moderate or severe physical abuse; 15–48% emotional abuse, and 25–30% (20% of the girls and 5–10% of the boys) sexual abuse (World Health Organization/ WHO, 2013). Notwithstanding the exhibiting high rates, the true prevalence of child maltreatment is considered much higher, since the relevant research suggests that 90% of child abuse cases pass unnoticed (United Nations Children's Fund/ UNICEF, 2020. WHO, 2013).





Apart from dealing with violence and the subsequent trauma, quite often, minor victims and witnesses of abuse also have to deal with the secondary victimization deriving from the Criminal Justice System (CJS), as the aftermath of legal processes, actions and intentional or unintentional omissions, occurring subsequent to the primary victimization (Beckett & Warrington, 2015. Bruce & Artz, 2019. Reimer, 2015. Roque et al., 2014. UNICEF, 2020. United Nations Office on Drugs and Crime/ UNODC, 2019. Van Niekerk & Coetzee, 2020). The Council of Europe (CoE) defines secondary victimization as *“the victimization that occurs not as a direct result of the criminal act, but through the response of institutions and individuals to the victim”* (CoE, 2006). European Institute for Gender Equality (EIGE) indicates that *“secondary victimization may be caused, for instance, by repeated exposure of the victim to the perpetrator, repeated interrogation about the same facts, the use of inappropriate language or insensitive comments made by all those who come into contact with victims”* (EIGE, 2021).

When asked, minor victims underlined how daunting, stressful, disempowering, and traumatic was their involvement in the CJS’s procedures (Beckett & Warrington, 2015. Bruce & Artz, 2019. Roque et al., 2014). Further to these negative experiences, this re-traumatization may act as an additional stressor who intensifies the already existing dysfunctional and distressing responses stemming from the trauma (Davidson et al., 2006). According to Roque et al. (2014) secondary victimization can occur due to inappropriate language used by legal and justice professionals; deficient information provided to the victim; not child-friendly dynamics of collecting evidence; multiple interventions imposed on the victim, and different interrogations about the same facts conducted in different settings and by different professionals (Roque et al., 2014). Van Niekerk and Coetzee’s study (2020) revealed various factors leading to children’s

re-traumatization, with the most predominant being the causal; the reactive; the consequential; the reduction; the resource availability, and the legislative factors, displayed in the following table.

No.	Themes	Sub-themes	
1.	Causal factors	1.1 Reporting process 1.2 Court personnel 1.3 Court procedures	1.4 Repetitive detailing of primary victimization
2.	Reactive factors	2.1 Victim's understanding of secondary victimization	2.2 Verbal nuances
3.	Consequential factors	3.1 Physiological effects	3.2 Emotional or psychological effects
4.	Reduction factors	4.1 Training	4.2 Sensitization
5.	Resource availability factors	5.1 Special courts 5.2 Finances	5.3 Lack of child friendly infrastructures
6.	Legislative factors	6.1 Legislative documents	6.2 Legislation implementation & Provision enforcement

**Table 1.** Risk Factors for Secondary Victimization of children victims of abuse (Van Niekerk & Coetzee, 2020).

### **1.1 The need to enhance the capacity of legal and justice professionals involved in the CJS procedures in cases of minor victims and witnesses of violence**

The problematic of secondary victimization of minor victims and witnesses of violence by the CJS mainly lays, according to researchers, in the insensitivity or even negligence/ ignorance of justice processes towards children victims' rights, interests and needs (Ramos & Silva, 2011. Roque et al., 2014). It also lays in the deficiency of professionals involved in such cases, concerning their knowledge and capacity related to the abused children's treatment (Ramos & Silva, 2011. Roque et al., 2014).

The relevant literature indicates that the training of legal and justice professionals is inadequate and thus, they lack the required ability and skills for providing qualitative services to minor victims and witnesses of violence, and for avoiding evoking further psychological damages in them (Davidson et al., 2006. Roque et al., 2014). Given this lack, the implemented approaches within the criminal procedures are ruled professionals' work practice, their job-related abilities, life experiences, inner instincts, and personal sensitivity (Ramos & Silva, 2011. Roque et al., 2014). Consequently, the rationale followed relies on the common sense, complying with the existing legislation, and, as a result, it is characterized by repetition, non-criticism and de-contextualization (Roque et al., 2014). Inevitably, such a practice leads to neglecting the essential pedagogical structures and methodologies and to ignoring the latest social needs and aspirations; making, in this way, the system seem like being static and absolute, apart from strictly formalistic (Roque et al., 2014). Furthermore, particularly in cases of child sexual abuse, CJS professionals' attitudes towards the techniques and concepts determining the classification, typification, and description of violence against minors indicate the presence of legal dogma (Roque et al., 2014). Grounded on the theoretical foundations, legal dogma promotes the formal techno-rational model; diverging, at the same time, from the rhetoric of the critical model (Roque et al., 2014).

In contrast to the perception that legal mechanisms promote minor victims and witnesses' of violence rights and interests, evidence shows that this happens only in terms of enabling the investigation and conviction or acquittal of the accused offender, by entrenching his guiltiness (Roque et al., 2014). Within this context, children are obliged to recount numerous times the violent incident; go through the multiple stages of justice process; endure long waiting periods; deal with frequent postponements, and survive the formality of the courtroom, the repeated questioning, the aggressive cross-examination and of testifying in front of the offender (Ben-Arieh & Windman, 2007). The absence of specific guidelines stipulating the interrogation of minor victims and witnesses of violence, their developmental phase, and weaker societal status intensifies both their vulnerability and risk of re-victimization (Ben-Arieh & Windman, 2007. Roque et al., 2014). Forsooth, children victims and witnesses of violence are not considered right-bearing citizens; they are treated with little understanding and in an insensitive or disrespectful manner, and they are perceived as unreliable witnesses, with invalid opinions (Ben-Arieh & Windman, 2007. Bruce and Artz, 2019. Van Niekerk & Coetzee, 2020).

Provided all the aforementioned facts and elements, there is an apparent and tremendous need for enhancing CJS professionals' knowledge and capacity for the treatment of minor victims and witnesses of violence, as well as for safeguarding the full implementation of the legal arsenal that defends and fosters their rights.



## 1.2 Promoting the need for full implementation of the Directive 2012/29/EU

The minimum standards on victims' rights, support, and protection are established by the Directive 2012/29/EU, including the individual assessment for all victims of crime within the criminal procedures, in all EU Member States (European Union, 2012).

Articles 22, 23 and 24 of the Directive 2012/29/EU stipulate specific protection measures at precedential level to victims identified as particularly vulnerable, such as the children (European Union, 2012). The United Nations Convention on the Rights of the Child, and especially the Articles 19(1) and 19(2), provision that: *"States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the children from all forms of physical or mental violence caused by the forensic-investigation or judicial process and establish appropriate measures for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement"* (United Nations Human Rights, 1989).

According to the European Implementation Assessment of the Victims' Rights Directive 2012/29/EU, most of the Member States have not completely transposed the Victims' Rights Directive (European Commission, 2020). Although Victims' Rights Directive underlines that women victims of gender-based violence require special support and protection, and despite the fact that many EU Member States have introduced new legislation and practical measures to implement the Victims' Rights Directive, victims' treatment through the justice process seems to differ a lot between Member States (Roque et al., 2014). Even in countries that have adopted the Directive, still, there is a need for special treatment towards women and minor victims and witnesses of violence, due to their extreme psychological and emotional vulnerability and the high risk of being secondarily victimized (Roque et al., 2014). Furthermore, huge gaps have been noticed at the practical implementation of the Directive 2012/29/EU. Pursuant to this finding, the European Commission's report regarding the implementation of the Victims' Rights Directive declares that the full potential of the Directive has not been reached yet; while its implementation cannot be esteemed satisfactory (European Commission, 2020). The reason behind that fact is the incomplete and/ or incorrect transposition of the Directive, since Member States may only be partially compliant in case of some provisions, lacking the detail contained in or envisaged (European Commission, 2020).

Complying with the aforementioned rationalism and attitude, the CoE argues, *"Victims should be protected as far as possible from secondary victimization"* (CoE, 2006). Towards this end, it

is easily understood that there is an urgent need for Directive's 2012/29/EU full implementation, translated into both legal/ policy and practical actions by all engaged parties.

## **2. Methodological Approach – Process Review**

As mentioned previously, the 2012/29/EU Directive articulates the acknowledgment and addressing of crimes' nature and special characteristics, as well as victims' personal characteristics, as part of individual assessment practices and approaches (European Union, 2012). Nevertheless, the relevant bibliography and research, likewise the literature review conducted in terms of the ENCLAVE Project, demonstrate that minor victims and witnesses of violence are often re-victimized by the CJS (Beckett & Warrington, 2015. Ben-Arieh & Windman, 2007. Bruce & Artz, 2019. Ramos & Silva, 2011. Roque et al., 2014. UNICEF, 2020. Van Niekerk & Coetzee, 2020). This failure and/ or malpractice is related to the fact that the justice system, its procedures, and representatives are not adapted, neither sensitive towards the rights, interests and needs of abused children (Roque et al., 2014).

Whereupon, the negative or poor implementation of the forensic–investigation and/or the criminal process in general endangers minors' welfare, due to the lack of capacity of legal and justice professionals, as well as due to the lack of capacity of victim support services' professionals concerning the forensic interviewing (Fundamental Rights Agency/ FRA, 2018. Gudbrandsson, 2010).

In this line, ENCLAVE Project's overall aim is to prevent re-victimization of abused children by fostering impactful changes in the criminal proceedings, through the introduction, incorporation and mainstreaming of an effective and coherent implementation of the Forensic Interview Protocol for minor victims and witnesses of violence.

### **2.1 Follow – up of Interviews**

The initial step of the ENCLAVE Project was the development of "Context Analysis", namely of a descriptive study combining desk research, on-line structured questionnaires, and face-to-face semi-structured interviews with legal and justice professionals engaged in the forensic procedure. The desk research was mainly focused on the regulations, procedures, protocols, and good practices of the field, and on the underage victims' journey from the victimization to the interview, and its impact on the forensic interviewing. The survey also probed the functioning and the efficacy of forensic interview procedures and justice processes in general

(in coherence with Directive 2012/29/EU) that refer to minor victims and witnesses of violence. The target group of this research was legal and justice or other involved professionals, such as judges, prosecutors, police officers, forensic interviewers etc., from the five participating countries (Belgium, Estonia, Greece, Italy, and Spain).

## **2.2 Development of Benchmark Protocol: Good Practices, Malpractices & Minimum Standards for CJS procedures**

After the research and context analysis of ENCLAVE Project's initial phase, a Benchmark Protocol would be developed, presenting a collection of good and malpractices identified in the participating countries and the EU in general, concerning the forensic interview and the correlated criminal procedures. This good practice protocol will include all relevant to the topic protocols, guidelines and interview information that are available, even if they are not applied. Afterwards, these findings will be compared and contrasted with the interviews' results. The Benchmark Protocol would be a visual protocol focusing on key aspects; whereas following a descriptive approach to all partner countries' context regarding the forensic protocol for child abuse. It would provide professionals practical advice and applied solutions on the procedures and the minimum standards in procedural, operational and assistance terms. The Benchmark Protocol will be published and freely available, in all project languages.

## **2.3 Transnational Comparative Report & Policy Recommendations to ensure implementation of interviewing procedures & of Directive 2012/29/EU**

The next step includes the development of a comprehensive Transnational Comparative Report and the corresponding Policy Recommendations. These outputs would ensure the proper implementation of forensic interview procedures, as well as of the Directive 2012/29/EU in the participating countries. Towards this end, they will be published and translated in all project languages, accompanied by dissemination activities. The Transnational Comparative Report will merge all the Context Analysis National Reports to present the level of development or integration of the protocol for child abuse's forensic interview in legal and justice professionals from Belgium, Estonia, Greece, Italy, and Spain. The Policy Recommendations would display the different existing systems, including the incorporation of objective data; the presentation of an "Ideal Model"; the minimum standards, objective data tables demonstrating the level of compliance and proposals for corrections, as well as relevant policy measures and proposals.

## **2.4 Key pathways for a Training according to professionals engaged**

In order to enhance the adequacy and efficacy of legal and justice professionals, the ENCLAVE Project aspires to increase their capacity and knowledge in EU civil, criminal and fundamental rights' instruments addressed to minor victims and witnesses of violence. To achieve that, partners should firstly assess legal and justice professionals' needs to form the upcoming capacity building interventions, namely the development of the training material and the implementation of the corresponding workshops and seminars, based on the realistic strengths and deficits, paradigms and gaps of both the front-line workers and the field. Thus, the research area of the survey conducted under the Context Analysis was expanded; also incorporating legal and justice professionals' needs related to the criminal procedures for children victims and witnesses of abuse. The data analysis provided by the participating countries formed the basis of the Needs Assessment Report, along with the key of the literature review of this topic.

In turn, the Need Assessment Report will be the pillar of the subsequent training material; since the key competencies featuring from the most imperative and fundamental needs would define training's objectives. This comprehensive training set of materials aims to instruct legal and justice professionals on the practical aspects of the application of legal framework concerning the forensic interview procedure for minor victims and witnesses of violence, by providing them not only knowledge, but also useful advices, practical tips and essential skills. In addition, the training material will be in line with Directive 2012/29/EU, and relevant for the whole EU, also being, at the same time, adapted so as to correspond to each participating country's national context. Afterwards, partners will organize a series of regional/national trainings for legal and justice professionals in their respective countries. The aim of these workshops is to collect feedback from the participants in order on the one hand, to update the training material by applying corrections and improvements, and on the other hand, to assess the impact of the trainings on the participants (such as changes in knowledge and perceptions).

Finally, a transnational seminar for legal and justice professionals will be organized, aiming at fostering collective reflection and exchanges of knowledge and experiences related to the latest advances in the field of forensic interview procedures for minor victims and witnesses of violence. At this seminar, all partners will participate and will bring relevant stakeholders.

## **3. Overview of the existing situation: Gaps and Needs**

Along with the increase in children's victimization prevalence rates, the chance of secondary victimization by the CJS also increases for the minor victims and witnesses of violence (Roque

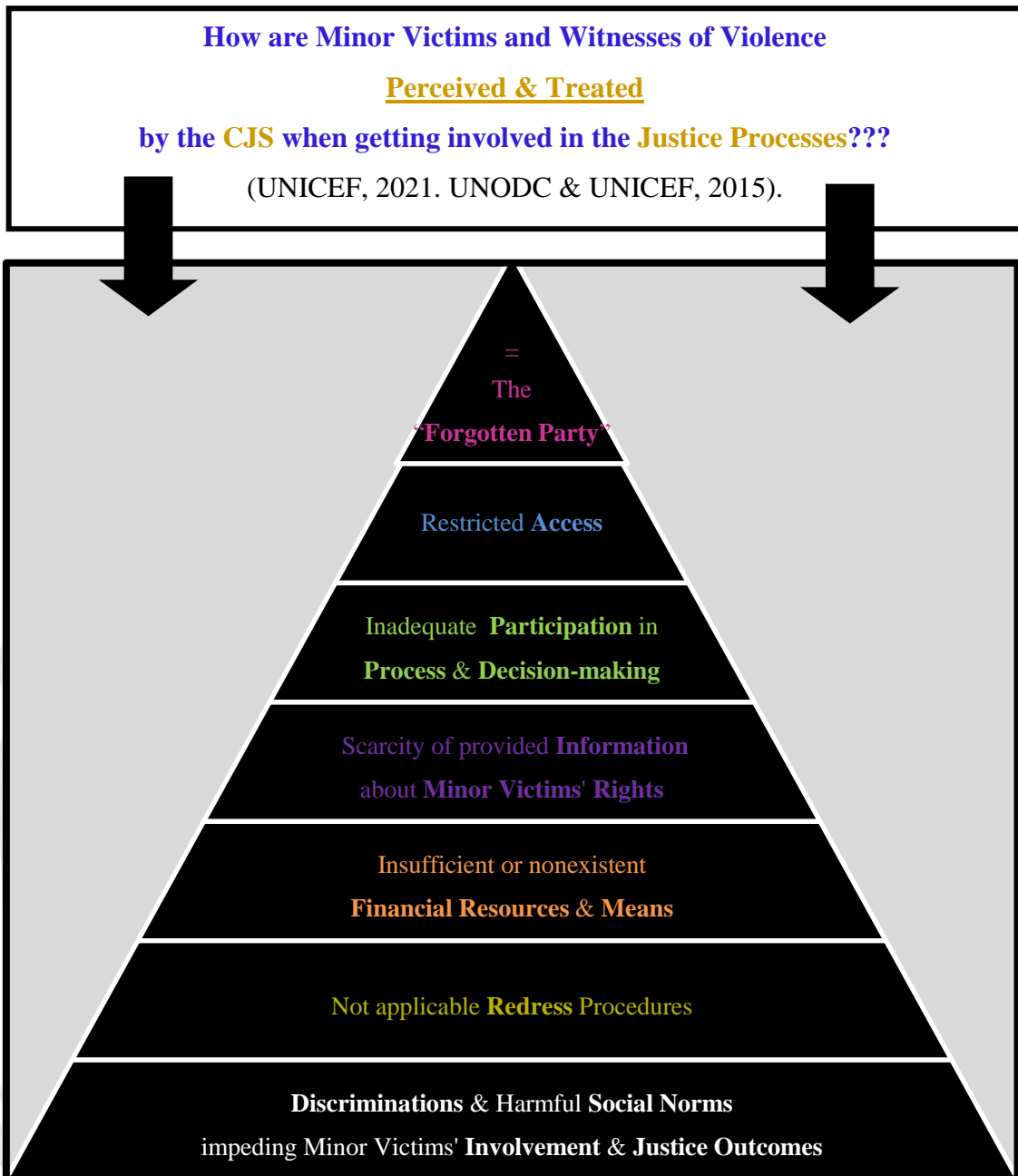
et al., 2014). The most prevalent factors that seem to provoke, trigger and/or preserve re-traumatization of minor victims and witnesses of violence within the criminal procedures are:

- the absence and/or insufficiency of the **legal framework** and/or the gaps in the **practical implementation of the law**;
- the **unsuitability** and/or **unfitting** of the **CJS's procedures and responses** to minors;
- the inadequacy, impingement, ignorance and/or negligence of addressing minors' **rights, interests and needs**;
- the absence or the lack of **policies and protocols**, especially forensic interview protocols, for child abuse;
- the absence, inappropriateness and/or inefficiency of expedient for children **criminal conditions, approaches and interventions**, and
- the absence or the **lack of knowledge and capacity** or the **incompetence and/or deficiency** of legal and justice professionals to effectively treat minor victims and witnesses of violence (Beckett & Warrington, 2015. Reimer, 2015. Katz & Kosher, 2020. Roque et al., 2014. UNICEF, 2021. UNICEF, 2020. UNODC, 2019. UNODC & UNICEF, 2015. Van Niekerk & Coetzee, 2020. Wilson et al., 2020).

### 3.1 The Legal Framework

Justice systems are supposed both to protect and support victims and witnesses of crimes, by fulfilling their rights and needs, including support; assistance; access to justice; access to fair treatment, and compensation and restitution (Beckett & Warrington, 2015. UNICEF, 2021. UNODC, 2019). Notwithstanding their intentions, the CJS worldwide are actually failing to protect minor victims and witnesses of violence, uphold their most basic rights, and fulfill the promise of fairness (UNICEF, 2021. UNODC & UNICEF, 2015). According to UNICEF (2021) *"in too many countries, children who are sexually exploited or trafficked end up not only arrested, but also detained; being treated as offenders, rather than being recognized as victims"*.





Data indicate that, despite the existing legal framework, in practice, when getting involved in the justice process, minor victims and witnesses of violence:

- are frequently considered to be the **"forgotten party"** in the justice processes;
- are often **not allowed to fully participate** in the justice **processes** and the corresponding **decision-making** that affect them;
- their **access** to the CJS is **restricted**;
- the **knowledge** of their **rights** is **limited**;
- the provision of **financial resources and means** (e.g. to contact a lawyer) is **insufficient** or even **nonexistent**;
- the **redress** for the harm suffered due to victimization is often **not available**, while

- the **legal fees, discriminations and social norms** impede their involvement in the criminal procedures (UNICEF, 2021. UNODC & UNICEF, 2015).

Furthermore, relevant research shows that, in some cases, there is lack of intervention and assistance or lack of practical enforcements regarding minors' removals; while relevant legislation is inaptly implemented, where there is not substantial evidence of the abuse, making professionals believe that in such cases, the law favors the offender (Van Niekerk & Coetzee, 2020). Exacerbating -in all these ways- children's suffering, justice systems directly and vigorously contribute to the secondary victimization, they meant to prevent; since they fail to provide minor victims and witnesses of violence the assistance, support and protection they are entitled to (UNICEF, 2021. UNODC, 2019. UNODC & UNICEF, 2015).

Acknowledging that the typical criminal procedures refer mainly to adults, do not meet the specific rights, and needs of minor offenders, in the participating countries, specialized courts for minor offenders are implemented; while in Estonia the analogous system are the Juvenile Committees (Strömpl & Markina, 2017)<sup>1</sup>. However, this does not apply for minor victims and witnesses of violence; and, on the top of that in most of such cases, the available support, care system is fragmented, while legal, and justice professionals are obliged constantly to make changes and adaptations that disrupt their working environment. In Estonia and Greece, the legal framework is considerably developed during the recent decade, being in general more or less appropriate, but should be amended, since there is too much freedom for interpretation of legal texts and case law is scarce. More specifically, in Greece although child-friendly criminal processes are stipulated by the law (MD 7320/2019), there are huge gaps in the practical implementation; while in Estonia, the legal framework has adult logic (commanding wording "While giving testimony, the witness is

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<sup>1</sup> "There are neither special juvenile courts nor family courts, these criminal cases are processed in the general court system". There are Juvenile Committees: "an alternative, non-juridical organ dealing with young offenders. Juvenile committees are formed by county governors and work within the limits of local cities or rural municipalities. Members of these committees are experts in the areas of education, social welfare and health care, police operations, and probation". In Judit <sup>1</sup> *"There are neither special juvenile courts nor family courts, these criminal cases are processed in the general court system". There are Juvenile Committees: "an alternative, non-juridical organ dealing with young offenders. Juvenile committees are formed by county governors and work within the limits of local cities or rural municipalities. Members of these committees are experts in the areas of education, social welfare and health care, police operations, and probation". In Judit Strömpl y Anna Markina, «Children's Rights and the Juvenile Justice System in Estonia. Juridica International», n.º 25:66 (2017), <https://doi.org/10.12697/JI.2017.25.07..>*

required to tell the truth” etc). Child friendliness is missing, criminal procedure on forensic interview is strict, application in cases of minor victims and witnesses is underdeveloped, and ECtHR calls for less strict procedural rules for children’s testimony.<sup>2</sup> Moreover, there are problems with the implementation of the law, mainly due to the fact that the legal framework (wording) leaves too much freedom for interpretation. Thus, there should be more attention paid to explanatory legal texts and regulations for effective protection of minor victims and witnesses; declarative sentences in law, and clearer indications of the professional background should be required and specified by regulation (for example training requirement exist in law, but the content is not specified, the term ‘appropriate training’ is used). The status of minor witness of violence should also be reviewed and victim’s rights should be applied, while victim support measures should be available (the draft of the Victim Support Act is in work 2020-2022, hopefully will be adopted in 2022). Additionally, in cases of failure of the Supreme Court judgment, the criminal matter subject to review is impossible due to the limitation period of offence. Article 87(7)(3) of the Penal Code provides that the limitation period of offence is interrupted in certain cases, including criminal offence against sexual self-determination against a person younger than eighteen years of age, until the victim attains eighteen years of age, unless the reason for the criminal proceedings became evident before the victim attained such age.

Similar to Greece, in Italy, the legal framework is considered more or less appropriate; the perception is that the law exists, but it is necessary to apply it in a more homogeneous way. Homogeneity and coherence in the application of the rules are the main concerns: there are still too many differences among different Regions of the country, and in particular between North and South Regions and among courts in big and in small cities. The rules regarding protected hearings are considered good, but clearer indications e.g. on the professional background requested to the professionals who intervene in the procedure would be beneficial.

In the matter of gender violence, it is important to note Spain's progress with the creation of the Organic Law 1/2004, December 28th, Comprehensive Protection Measures against

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<sup>2</sup> The ECtHR found that there were significant flaws in the Estonian procedure; as it did not sufficiently take into account her particular vulnerability and corresponding needs as a young child to afford her effective protection as the alleged victim of sexual crimes.

Gender Violence<sup>3</sup>, in addition to specialized courts in Violence against Women. Nevertheless, they would not be competent in the issue unless the sexual offence is between couples or ex-couples (Intimate Partner Violence, IPV). Although there is no specific justice system neither for underage victims nor for victims of sexual offences, underage victims of sexual offences will be redirected to the Juvenile justice system when the offender is 14-17 years old. It is worth mentioning, though, the approval of the Organic Law 8/2021, which is a turning point for Spain, stipulating specialized courts for minor victims of abuse, in terms of providing comprehensive protection to children and adolescents against violence (LOPIVI). In particular, foreseen by the Organic Law 8/2021, the first such court is operating in the Gran Canaria (GC), part of the autonomous community of the Canary Islands. The law establishes measures for the prevention of violence against children and adolescents and normative modifications, among which stands out the obligatory nature of pre-constituted evidence for victims under 14 years of age or for persons with disabilities in need of special protection in some crimes, among which are sexual crimes. It also highlights the importance of the adequacy of the process to ensure the safe participation of underage victims and the professional specialization of all those who will be in contact with the child victim. This legislative modification has a direct impact on the use of the forensic interview regarding minor and witnesses of sexual violence. The new law aims to correct the lack of use of pre-constituted evidence in victims less than 14 years of age<sup>4</sup>.

According to ENCLAVE Project's research and the Comparative Report & Policy Recommendations<sup>5</sup>, regarding Belgium, Estonia, Greece, Italy and Spain, there are differences in the five countries between what is enshrined in the legislation and how it is

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<sup>3</sup> Ley Orgánica 1/2004, de 28 de diciembre, de Medidas de Protección Integral contra la Violencia de Género. Jefatura del Estado «BOE» núm. 313. BOE-A-2004-2176. Available at: <https://www.boe.es/buscar/pdf/2004/BOE-A-2004-21760-consolidado.pdf>.

<sup>4</sup> Art. 449 ter LECrim: *"Where a person under fourteen years of age or a person with a disability in need of special protection is called as a witness in legal proceedings concerning the investigation of an offence of: Homicide, injuries, against liberty, against moral integrity, trafficking in human beings, against sexual freedom and sexual indemnity, against privacy, against family relations, relating to the exercise of fundamental rights and public freedoms, criminal and terrorist organizations and groups and terrorism"*. For victims aged 14-17, the Judiciary's assessment continues to apply, reinforcing the importance of adequate training in this regard.

<sup>5</sup> ENCLAVE Comparative Report & Policy Recommendations (2022). Available at: [https://enclaveproject.eu/wp-content/uploads/2022/11/ENCLAVE\\_transnational-report-annexes\\_FINAL\\_ENG.pdf](https://enclaveproject.eu/wp-content/uploads/2022/11/ENCLAVE_transnational-report-annexes_FINAL_ENG.pdf)

reflected in day-to-day practice. Although states have regulations that do not adequately reflect children's rights, in most cases they could be considered sufficient. Therefore, it is considered fundamental to link children's rights with specific interests and measures (see Annex 1 of the [Comparative Report](#)). This allows not only for a better understanding by professionals of how to put these rights in practice, but also to ensure their fulfillment and move away from the false belief that adaptation measures are linked to the sensitivity of professionals, when in fact these measures are foreseen in their rights.

ENCLAVE research revealed that it is important for all legal operators to have a clear understanding of the law and the rights of victims, but above all, what these rights entail. It is not enough to know the law regarding the protection from secondary victimization and the obligation of a child-friendly environment. In the end, it was observed that many professionals do not fully grasp the significance and translation of these two concepts in their daily work. Alternatively, in the best-case scenario, that the minimization of secondary victimization and the presence of child-friendly environments can be achieved to a certain extent (based on the availability of material and human resources).

It is important to recognize the child victim as a rights holder and to remember that the absence of adaptations means the denial of access to justice. This includes the need to know: their right to inform the authorities of their situation of violence without the presence of representatives (also facilitating the accessibility of this communication by different means), free legal aid, adapted information (clear and understandable language based on age and developmental stage, and the specific situation of vulnerability) child-friendly environment, care by specialized professionals, etc. Therefore, this professional shall be the one who enforces children's rights; meaning that knowing all recognized rights in the police phase (the most sensitive one) and in the pre-trial phase is of great importance.

### **3.2 The Policies**

The Belgian provisions do not prohibit minor victims from reporting an offence, although they do not have the legal standing *“to file an action or register as a civil party or injured person. The child can only do so through her/his legal representative. This is relevant as the status of injured person is necessary to receive information on the follow-up of the case and the status of civil party opens the door to many rights such as the right to consult the case*



*file and to ask for additional acts of investigation”* (European Commission, 2013, p.8)<sup>6</sup>. In cases the victim is a child, in order to become civil party, the application should be submitted by both parents if they share his/her custody or by the parent who has the child’s parental authority. In cases of conflict between the child and its parents, according to the Civil Code, an ad hoc guardian is designated by the judge, either upon request of any interested party or ex officio. The guardian is legally allowed to represent the child in filing an action; however, such authorisation is not necessary for the guardian to become a civil party to proceedings in the name of the child” (European Commission, 2013, p.16).

*“The Belgian Constitution (Article 22bis of the Belgian Constitution) recognises the right of the child to be heard on any question which concerns her/him. His/her opinion must be taken into account in accordance with the child’s age and maturity. In practice, the judge decides, on a case-by-case basis to hear the child victim during criminal proceedings. It appears that judges do not hear children under the age of 12 years, which is considered as the age of sufficient maturity. In practice, judges nevertheless can make exceptions and hear children under 12 years of age. The judge can, by reasoned decision, decide to hear the child in Court, if (s)he deems it necessary for the ensure a truthful testimony. If the judge does not order the hearing of the child in the courtroom, the audio-visual recording of the interview will be used in place of the hearing of the child. The summary of the child’s interview is accepted as evidence to the same extent as any other evidence.”* (European Commission, 2013, p.15). In Estonia, there are no specific provisions concerning children's ability to report a crime; while, in Spain, the presence of minors’ representatives or legal guardian is not mandatory as he/she has the right to file a complaint himself/herself<sup>7</sup>. Actually, in Estonia a crime can be reported using help lines and/or the police communication channels (e.g. in person, through phone call, police website). On the contrary, in Greece and Italy filing a complaint is regulated by age restrictions. For instance, in Italy, if a child is under 14 only his/her parents or legal guardian have the right to file a complaint; even if the child does not agree with this decision/action<sup>8</sup>; while in Greece, the age limit is 12 years. However, either a complaint can be filed by the parents or legal guardians or the child, if the victim is 12 to 16 years of age; while only after 17 years is a minor victim of violence entitled to file a complaint himself/herself.

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<sup>6</sup> European Commission, Directorate-General for Justice, (2014). *Study on children’s involvement in judicial proceedings : contextual overview for the criminal justice phase : Belgium*, Publications Office. <https://data.europa.eu/doi/10.2838/71697>.

<sup>7</sup> Arts. 17. 14 and 50.2.f LOPIVI.

<sup>8</sup> Art. 120 Italian Penal Code.

Minors' rights include, among many others, having legal representation through all the phases of the criminal procedures, even when there is a conflict of interest between the child and the legal representative<sup>9</sup>. However, ENCLAVE Project's research revealed many differences between the participating countries concerning the figures representing minor victims of violence during the justice process. In Estonia and Greece there are special representatives assigned with this role; whereas, in Spain, minor victims of violence are represented by a legal defender before a conflict of interest; however, it is an "empty figure" and specific training is not required<sup>10</sup>. In Italy, children's representatives are not explicitly specified, and thus, the representative of the minor victim could be either a guardian whose role is to inform the child about the status, the process and the outcomes of the proceedings, a guardian "*ad litem*" ensuring child's representation from the initial stage, that of the preliminary investigation"<sup>11</sup> or even a lawyer. Unlike the aforementioned countries, good practices were identified in the other two countries. In particular, the Belgian CJS stipulates a special representative or an "*ad hoc guardian*" authorized to carry out all the necessary actions<sup>12</sup>; while, in Estonia, the Child protection specialist, is in charge of protecting minor victims' of violence rights and interests. In Belgium according to the Joint Circular of 14 October 2021, the lawyer has a defined role in the process: can assist the person to be interviewed, can be present from the moment the person to be interviewed is taken in by the police and have a confidential interview with his or her client before the interview begins. When the lawyer attends the hearing, it is preferably from the control room, but also possible to be in the interview room, in the background, out of the field of vision of the person being interviewed. One of the purposes of the presence of the lawyer is to control the regularity of the hearing by ensuring that the person being heard is

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<sup>9</sup> Milieu et al., 2014. Summary of contextual overviews on children's involvement in criminal judicial proceedings in the 28 Member States of the European Union., Publications Office of the European Union. 20.500.12592/n06143..

<sup>10</sup> No specialized training is required for the judicial defender, although specialized training is required for the legal profession (which is currently insufficient). There is no proper recognition of a fixed reference person or of a figure who specifically looks after children's rights in a professional manner.

<sup>11</sup> Protection of children against sexual abuse in the circle of trust: The framework (first implementation report of the first monitoring round), adopted by the Lanzarote Committee on 4 December 2015. <https://rm.coe.int/1st-implementation-report-protection-of-children-against-sexual-abuse/16808ae53f>. p.125

<sup>12</sup> Protection of children against sexual abuse in the circle of trust: The framework (first implementation report of the first monitoring round), adopted by the Lanzarote Committee on 4 December 2015. <https://rm.coe.int/1st-implementation-report-protection-of-children-against-sexual-abuse/16808ae53f>.

treated properly, that no unlawful pressure or coercion is manifestly exerted and that an interpreter is present if necessary to take the testimony of the person being heard. The lawyer is expressly recommended not to intervene directly but wait until the end of the hearing to make any observations. Before observed procedural irregularities, their remarks are to be recorded in the hearing minutes. At the same time, in Italy, the lawyer can play a major role, not envisaged by law and out of the personal ethics and specialized knowledge of the professional, in the supervision of the proper conduct of the forensic interview. Both by knowing the case file and documents, according to CP the lawyer can have access to the investigative documents, and by ensuring that during the protected hearing the testimony of the minor suspected of being a victim of sexual abuse is collected in a correct manner, avoiding contaminating effect on the reconstruction of the facts on account of procedural errors.

In Spain, different child-friendly criminal procedures have been implemented. The Spanish criminal system foresees the pre-constituted evidence, *"a legal formula that in cases of alleged child sexual abuse has two main objectives"*: a) to protect the child's testimony (cognitive evidence) of the subsequent deterioration of multiple and inappropriate interventions, b) avoid re-victimization of the child due on its way through the police and judicial processes" (Gonzales et al, 2013). The pre-constituted evidence must comply with certain requirements to ensure the procedural guarantees of the accused<sup>13</sup>: to guarantee the principles of contradiction and immediacy, the Investigative Judge, the Public Prosecutor's Office and the defendant and his lawyer must be present, and the questions or clarifications that they consider necessary may be passed on. In addition, it must be recorded, the quality of this will be checked immediately, and it will be accompanied by a record authorized by the Lawyer of the Administration of Justice and signed by the intervening parties. Finally, the forensic interview to be used as pre-constituted evidence, must be carried out by experts, namely, forensic psychologists. Until now, pre-constituted evidence has been used in a very disparate manner as it depends on the assessment of the Investigative Judge. However, the LO 8/2021 now offers greater clarity by recognizing it as compulsory for minors under 14 years of age. Towards this end, there are pilot projects, on the initial stages of development and implementation, of the Barnahus model in

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<sup>13</sup> The European Court of Human Rights of Strasbourg has expressed itself in this sense, warning that "If the accused has had adequate and sufficient opportunity to respond to such statements, at the time they were made or later, their use does not in itself violate Articles 6(1) and 6(3)(d)". Judgment of the European Court of Human Rights of Strasbourg 96/2001, (Section 1), 27 February 2001. *Lucà v. Italy* (2001) <https://hudoc.echr.coe.int/fre?i=002-5791>. See also Gargallo, A. P. (2018). Publicidad del proceso e intimidación de la víctima: una aproximación desde el Estatuto de la víctima del Delito. *Teoría & Derecho. Revista de pensamiento jurídico*, (24), 151-177.

different autonomous regions (i.e., Barcelona, Madrid, Vasque country). *“Before the trial, several categories of professionals, such as specialized divisions of the police forces (notably the GRUME<sup>14</sup>) hold a duty to protect the child victims from undue hardship”<sup>15</sup>*. As stated in ENCLAVE interviews with police officers from the Judicial Police, and in literature research, there are “rules to ensure a child friendly environment within the tasks of the police, such as not wearing uniform but rather normal clothing, or transporting children in a normal vehicle instead of an official police car”. However, and as stated in the previous section, there is a lack of a material and human infrastructure within the judicial system regarding minor victims and witnesses’ of violence concerns.

According to ENCLAVE Project’s [Benchmark Protocol](#)<sup>16</sup>, there is a need for a fixed reference person to inform the child victims and their family throughout all the legal process, since there are different figures in charge of this duty, namely police officers, legal counsels, public prosecutors and victim support services’ professionals. In addition, it is of great importance to define the role of each professional involved in the different phases of the judicial proceeding, as well as the required training and experience. Thus, *“it is recommended that States review the figures who actively participate in the judicial process as well as their specialized training in the rights and assessment of the interests of child victims. In this sense, it is advisable to reinforce the specialized training of the professionals who participate in the process directly or indirectly. The creation of new figures and their viability should be reviewed by each State. The requirement for these figures should not be interpreted in a restrictive manner, i.e., only aiming to represent minor victims in the process, but rather to advocate for a professionalization of the incorporation of the interests of minor victims/witnesses in the process”* (ENCLAVE Benchmark Protocol, 2022, p.15). One specialized figure should be present during the testimony and the examination, to protect and guarantee children’s rights and to facilitate their participation, with the duty to support children before, during and after the hearing. The role can be accomplished by legal or social professionals (e.g., judges, prosecutors, psychologist, police officers) who are accredited and trained on child-related justice issues<sup>17</sup>.

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<sup>14</sup> Child Unit of the Judicial Police Provincial Brigade.

<sup>15</sup> GHK, I. (2014). Study on children’s involvement in judicial proceedings: contextual overview for the criminal justice phase: Spain. <https://data.europa.eu/doi/10.2838/789>

<sup>16</sup> ENCLAVE Benchmark Protocol (2022). Available at: <https://enclaveproject.eu/wp-content/uploads/2022/09/ENCLAVE-BenchmarkProtocol.-EN-jul-1.pdf>

<sup>17</sup>European Union Agency for Fundamental Rights. (2015). *Child-friendly Justice: Perspectives and Experiences of Professionals on Children's Participation in Civil and Criminal Judicial Proceedings in 10 EU Member States*. Publications Office of the European Union.



The right of participation in the justice processes and the corresponding decision-making includes the right to be adequately informed, the right freely to express your opinion, and the right to be heard with respect. Balsells et al.'s (2021) research on decision-making processes within the child protection system, specifically in family reunification processes, suggests that: *"the information that is provided to children and adolescents is inaccurate and incomplete at all stages of the decision-making process, and the degree of understanding the reasons that underlie the decision-making is minimal"*. Similar to the relevant research is the situation in most countries; with Spain and Belgium, however, being the exceptions. More specifically, in Spain, these three dimensions are enshrined in all the current protection laws for children and adolescents, but vary in scope and effectiveness<sup>18</sup>. Spanish law LO 8/2021 repeatedly refers to the participation and listening of minors in all matters that affect them (administrative or judicial proceedings that impact their personal, family and social life). However, this law does not establish clear mechanisms for participation and decision-making. In this sense, Spanish legislation allows for the Victims' Support Offices (VSOs) to be used for an individualized assessment of the rights, needs and interests of each victim, which should be consulted to better adapt the process and thus facilitate the participation and decision-making of victims in the criminal proceedings. Nonetheless, VSOs are quite recent and not fully implemented.

Usually, the child's right to be heard, the request to appear in court and the fulfillment of the rights of the accused need to be balanced and weighed against the child's best interest. Again, beyond the knowledge of the existing regulations, it is important to have practical mechanisms (guides, protocols, model documents) that allow legal operators to activate these measures and to have the necessary specialized support professionals. Not to mention, the relevance of acknowledging the different roles that the different actors of the process play: professionals, family, minor victim/witness, accused, community and society. In this regard, all the work done apropos of the participation of adults with disabilities could be used as reference and as a spur of what can be achieved in the end.

Regarding the provided knowledge of victims' rights, a harmonious understanding of the rights of victims is needed. More specifically, according to ENCLAVE Project's research, in the participating countries, there is adequate general knowledge of children's rights, but they are approached from an adult-centered perspective instead of a child-centered perspective, opting for protection measures that sometimes go against the interests and rights of the minor

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<sup>18</sup> Massons-Ribas, A., Balsells, M. À., & Cortada, N. (2021). The Participation of Children and Adolescents in the Protection System: The Case of the Spanish Legislation. *Social Sciences*, 10(7), 268. <https://doi.org/10.3390/socsci10070268>



victims. For this reason, in addition to providing legal and justice professionals training on minor victims' rights, with special attention to the new regulations, it is important to emphasize the change of their perspective for a correct interpretation, in terms of knowledge increase and capacity building<sup>19</sup>.

In Spain<sup>20</sup> and Belgium<sup>21</sup>, minor victims of violence are entitled to free legal assistance. In Spain, free legal aid is established in art. 14 LOPIVI: Right to free defense and representation by lawyer and solicitor in accordance with the provisions of Law 1/1996, of 10 January, on free legal aid. Urgent appointment of a court-appointed lawyer to ensure their immediate presence and assistance to victims and legal empowerment for the procedural representation of the victim until the appointment of a solicitor is stipulated. Children and adolescents (CA) victims of violence may appear as private prosecutors at any time during the proceedings. In addition, the *"Law on aid and assistance to victims of violent crime and crimes against sexual freedom"*<sup>22</sup> requires Judges and magistrates, members of the Public Prosecution, public authorities and officials involved by reason of their position in the investigation to inform the alleged victims about the possibility and procedure to request aid covered by this Act. They have the obligation to inform the victim of the course of the investigation. In all situations, research process interrogation of the victim must be made with respect to the personal situation, rights and

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<sup>19</sup> We stress the importance of linking rights with specific measures and refer to the consultation Annex 1 table Connecting rights, interest and specific measures in the forensic interview and system adaptation, developed for WP2 deliverable: Transnational report and policy recommendations

<sup>20</sup> Arts. 17. 14 and 50.2.f LOPIVI.

<sup>21</sup> GHK, I. (2014). Study on children's involvement in judicial proceedings: contextual overview for the criminal justice phase: Spain.

<sup>22</sup> Law 35/1995 (Law on aid and assistance to victims of violent crimes or violations of sexual freedom), 11 December, articles 15 and 16.

*dignity of the victim*”<sup>23</sup>. Contrary to Estonia<sup>24</sup>, Greece<sup>25</sup> and Italy<sup>26</sup>, where only children from low-income families have access to free legal aid and only on the condition that they can prove it, in Belgium no supporting documentation is required (e.g. to show low income) to receive free legal aid<sup>27</sup>. Nevertheless, there are some exceptions. For instance, in Estonia, free legal assistance is appointed by the judge when he/she considers it essential for protecting victim’s interests and needs<sup>28</sup>. In Greece, free legal assistance is stipulated for specific crimes that are considered heinous, such as the crimes against one’s sexual freedom, the crimes of economic sexual exploitation and the crimes of domestic violence<sup>29</sup>.

In overall and according to ENCLAVE’s Benchmark protocol *“although specialized courts are not a prerequisite for the adequate protection of children’s rights, they do facilitate greater specialization and better supervision and evaluation of its overall functioning. Thus, it is recommended that Belgium, Estonia, Greece, Italy and Spain review nationwide the existence of reference entities that currently have a sufficiently stable structure and specialized training to be able to function as a reference centre. The main objective of these reference entities is to function as a meeting and cooperation point for information about the child victim/witness to*

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<sup>23</sup> European Commission, Directorate-General for Justice, Lloret Blackburn, R. (2014). Study on children’s involvement in judicial proceedings: contextual overview for the criminal justice phase: Spain, Publications Office. <https://data.europa.eu/doi/10.2838/789>

<sup>24</sup> GHK, I. (2014). Study on children’s involvement in judicial proceedings: contextual overview for the criminal justice phase: Spain., <https://op.europa.eu/en/publication-detail/-/publication/c239ba45-8f35-4394-82e6-ea55d44c090c/language-en/format-PDF/source-249044472>.

<sup>25</sup> Art. 118(1) and (2) PC, arts. 42(4) and 46(2) PPC and Law 3226/2004 on ‘Legal aid to low-income citizens’. See also, Kaltsouni, S. (2014). Study on children’s involvement in judicial proceedings: contextual overview for the criminal justice phase: Greece, <https://op.europa.eu/en/publication-detail/-/publication/29a63840-96ca-4840-bac8-071e05e5262c/language-en/format-PDF/source-249044436>.

<sup>26</sup> Canetta, E. (2014). Study on children’s involvement in judicial proceedings: contextual overview for the criminal justice phase: Italy, <https://data.europa.eu/doi/10.2838/74916>.

<sup>27</sup> Meurens, N. (2014). Study on children’s involvement in judicial proceedings: contextual overview for the criminal justice phase: Belgium, <https://data.europa.eu/doi/10.2838/74916>.

<sup>28</sup> Haruoja, M. (2012). Study on Children’s Involvement in Judicial Proceedings: Contextual Overview for the Criminal Justice Phase: Estonia, <https://op.europa.eu/en/publication-detail/-/publication/c239ba45-8f35-4394-82e6-ea55d44c090c/language-en/format-PDF/source-249044472>.

<sup>29</sup> Art. 118(1) and (2) PC, arts. 42(4) and 46(2) PPC and Law 3226/2004 on ‘Legal aid to low-income citizens’. See also, Kaltsouni, S. (2014). Study on children’s involvement in judicial proceedings: contextual overview for the criminal justice phase: Greece, <https://op.europa.eu/en/publication-detail/-/publication/29a63840-96ca-4840-bac8-071e05e5262c/language-en/format-PDF/source-249044436>.

*be able to coordinate the responses given to them. This therefore requires an individual assessment of the specific needs of the victims as provided for in Directive 2012/29/EU (art. 22 and 23) and allows for the coordination of specific protection measures in time and form. The experience of the partner countries in Youth Courts for juvenile offenders can help in finding analogous approaches to proceedings involving child victims.*

*It is essential to have a national registry of (sexual) violence against children, which includes the following data: type of violence; age; gender; disability; relationship between the victim and the offender; how the violence was detected; resources used by the victim; expert reports, and response of the process”<sup>30</sup>.*

According to Roque et al. (2014), legal and bureaucratic mechanisms reproduce the societal power structures and values during the procedures of registration and processing of the crime; leading to perpetuating oppression and thus, victimization caused by formal instances of social control against young citizens requiring special attention; demonstrating –in this way- inadequacies that violate the constitutional principles.

Thus, apart from the implementation of a solid legal framework and the steadier application of the already existing legal framework, there is a need for a fair, effective and efficient CJS, fully respecting the rights and needs of minor victims and witnesses of violence; treating them in accordance with their best interests, with dignity and compassion and without discrimination; allowing and enabling their participation in the justice process; providing them the appropriate assistance and support, while focusing -at the same time- on preventing and tackling secondary victimization (Quas & Goodman, 2012. UNODC & UNICEF, 2015).

When involving in the CJS minor victims and witnesses of violence frequently experience secondary victimization due to child-unfriendly and inappropriate in all ways criminal procedures that re-traumatize them (Roque et al., 2014. UNICEF, 2021. UNODC, 2019. UNODC & UNICEF, 2015. Van Niekerk & Coetzee, 2020). More specifically, the process of collecting evidence *“is translated into a series of speeches that are tied into a power structure maintained by the legal authorities to maintain the authority of the institution it represents, wielding power over the person who holds the supposed truth, or rather, in order to obtain their knowledge, it*

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<sup>30</sup> “Data Collection Register, information sharing and awareness raising: Aggregated and disaggregated data/statistics is collected and shared with relevant stakeholders, including decision-makers, academia, child protection professionals, and the broader public, to create awareness about violence against children and the role of media responses, to facilitate research and to support evidence-based legislation, policy and procedures” (BHQS 10.1).

*ends up judging and punishing; a process that causes intrinsic changes in the witness victim, causing new damage and leading to the process of secondary victimization” (Bittencourt, 2007, p. 19).*

In terms of minor victims and witnesses of violence re-traumatization, children’s stress and trauma related to the CJS’s procedures, attitudes and treatment can be caused by:

- the dynamic of the collection of evidence which is not child-friendly;
- the unfamiliarity with the criminal procedures;
- the long waiting periods;
- the frequent postponements;
- the formality of the courtroom;
- the lack of information needed;
- the lack of children’s participation in decision-making and criminal procedures in general;
- the transition through a number of 'stations';
- the numerous interventions imposed upon the victim;
- the different interrogations about the same facts, in different departments by different, respective professionals;
- the numerous repetitions of the traumatic incidence;
- the repeated questioning;
- the repeated and insensitive interviewing;
- the testimony in front of the offender;
- the aggressive cross-examinations;
- the false, frightening concept of the CJS process children may have; the fear of being yelled at in court, of not being believed, and of being sent to jail as a result of making 'a mistake' on the witness stand;
- the authorities' perception of children as not being right-bearing citizens, not having valid opinions and/ or not being reliable witnesses;
- the lack of training among professionals involved, and
- the lack of ongoing, coordinated follow-up care in the various services and sectors (Ben-Arieh & Windman, 2007. Bittencourt, 2007. Ramos & Silva, 2011. Roque et al., 2014. UNODC, 2019. Wilson, et al., 2020).

Despite the extreme psychological and emotional vulnerability of minor victims and witnesses of violence, the high prevalence and adverse consequences of secondary victimization in this population, the relevant research indicates that the efforts towards minor victims’ protection are still poor and with limited scope. While, at the same, the strategies targeting the

improvement of the interrogation process and the avoidance of re-traumatization are limited and still in the early stages (Roque et al., 2014). As Roque et al. (2014, p. 73) indicate *“there are several re-victimizing issues relating to the issue of interrogating child and adolescent victims of abuse, forcing us to rethink the social role of the justice system, change our practices, treat the matter in a more delicate way and reflect on possible factors that could cause re-victimization”*.

Based on all the aforementioned facts underlying the importance of ensuring victims' protection throughout criminal investigations and court proceedings, and provided that the advocacy of the CJS can reduce by itself the negative effects of abuse, while protecting vulnerable children from further abuse, there is an essential need for implementing policies targeting the secondary victimization of minor victims and witnesses of violence by the CJS (Ben-Arieh & Windman, 2007. Honor, 2010. Lamb et al., 2007. Roque et al., 2014. UNODC, 2019).

Within this context, these policies need to follow and foster specific fundamental principles, such as:

- Address adaption to the specific needs of minors;
- Encourage child-friendly and gender- sensitive procedures and approaches (namely applying the standards on child-friendly justice, such as accessibility; age appropriateness; speed; diligence; adaption to and focus on the needs of the child; respect to the right to due process; respect to the right to participate in and to understand the procedures; respect to the right to private and family life; respect to the right to integrity and dignity);
- Divert minors from formal criminal procedures;
- Promote and support restorative justice approaches;
- Advance alternatives to pre-trial and post-trial detention;
- Provide recovery and reintegration services;
- Empower children to claim their rights, through legal and other services, and
- Prevent further abuse, violence and exploitation (CoE, 2021. Gekoski et al., 2016. UNICEF, 2021) .

The Convention on the Rights of the Child introduced a radical innovation, by stipulating that children and adolescents should be perceived and treated as *“active subjects with full rights to physical, mental, and social development, and, in particular, the right to freely express their*



*opinions*"<sup>31</sup>. Notwithstanding that fact, the relevant research from the field, including the one conducted in terms of the ENCLAVE Project, indicate that there is an adult-cantered view of children's rights, which, in many cases, does not allow them to be interpreted correctly. From this protectionist viewpoint, adult interests are preserved over children's interests, with repercussions on their wellbeing. Our study also revealed absence of gender perspective on children and adolescents' matters, which does not allow for a correct interpretation of the use of power in sexual crimes against minor and adolescent girls (double use of power).

In Italy, coherence and homogeneity are fundamental to policies referring to minor victims and witnesses of violence. Beside national framework and guidelines, in fact, this issue is managed at a regional/local level by public and private subjects. Furthermore, developed and implemented policies differ a lot among different places, even in the same Region, also owing to the budget constraints that most of all the private actors are facing.

In Estonia, violence against children has been highlighted in policy and strategy papers from 2005. However, although in overall, the goal setting appears to be adequate, unfortunately the achievement could be questioned. This finding is imputed, according to the research of the ENCLAVE Project, to the fact that the implementation of the strategies is weak; the action plans and measures are too general and unsatisfactory, and the resources (finances and trained specialists) available are severely limited. Towards this end, and in terms of the implementation of the Violence Prevention agreement 2021-2025 that sets out 14 measures for violence prevention<sup>32</sup>, and particularly measure No 3 focusing on the support for children and young people who have problems with violence<sup>33</sup> and measure No 4 focusing on prevention and reduction of domestic violence, there are some sub-goals that should be implemented in coming years. In order to protect better minor victims and witnesses of violence, the procedural practices, and the need to update laws will be analyzed. It will also be determined

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<sup>31</sup> Massons-Ribas, Anna, M. Àngels Balsells, and Neus Cortada. 2021. The Participation of Children and Adolescents in the Protection System: The Case of the Spanish Legislation. *Social Sciences* 10: 268.

<https://doi.org/10.3390/socsci10070268>

<sup>32</sup> Violence prevention agreement 2021-2025, (Estonia). Available at: <https://www.just.ee/en/crime-and-prevention-crime/violence-prevention-agreement>.

<sup>33</sup> However, there is stated that: Children and young people who have been exposed to violence will have prompt access to mental health care, including psychiatric care. Crisis counselling for young people must be available. The circle of first aid providers for mental health will be expanded. In pre-trial proceedings, an assessment system for minors and young people will be developed to identify children and young people who need support and intensive intervention.

whether there is a need to change the role of children who have witnessed violence within the criminal proceedings.<sup>34</sup> Specialists will be provided with knowledge of trauma-based treatment and minors with trauma experience will be provided with appropriate assistance.

Finally, although policy development and implementation towards child friendly interviewing and investigation is explained in relevant handbook and guidelines, there is a space to improve the understanding of what child-friendliness (in criminal procedure) is.

In general, according to the Benchmark protocol, there are statutory provisions in the five EU countries to provide child victims information on their rights and the criminal procedure in which they are involved, in a child-friendly manner and in the first contact with the authorities. However, using child-friendly language as a means of communication is not an extended practice, since such an attitude depends on professionals' specialized knowledge and skills, which in most of the cases are missing.

Treating children victims and witnesses of violence as rights holders, their access to justice should be both real and adequate. For that reason, the materials should be adapted to their age, providing all the required information about their rights and the processes. It is also recommended for most participating countries to review the legal aid offered to minors, so that the victim's situation of dependence does not jeopardize their access to legal aid. Finally yet importantly, there is a need for specialization of legal professionals in order to sufficiently understand, respect and serve the rights, needs and interests of children victims and witnesses of violence.

In Belgium, interviews usually take place in police precincts (child victims are never heard in court and usually they are not present during the hearings). Whereas in Estonia, interviews are carried out in police stations, Children's Houses, Courtrooms and Prosecution Offices. In Greece, despite the corresponding law stipulating the Independent Protection Units for Minor victims (housed in detached buildings within the urban area, accessible by public transport, formulated with safety standards for the minor victim and witness of abuse and inclusive infrastructures for minors with disabilities), as these units are still not in place, interviews are usually carried out in police stations but also in prosecution structures and Courtrooms. While in Italy and Spain, interviews usually take place in Courtroom facilities and Prosecution Offices.

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<sup>34</sup> There is a draft of the Victim Support Act in work, hopefully will be adopted in autumn 2022.

In the participating countries usually there is no separate entrance for minor victims, meaning that access to police precincts and courthouses is not adapted or child-friendly, with few exceptions (e.g., Spain's Juvenile prosecutor's Offices, Specialized Court of violence against children in Gran Canaria, some police stations in Estonia<sup>35</sup>). The already existing buildings are hostile to children who become exposed to unsettling images before they reach child-friendly rooms –when there are any- and can even encounter the alleged offender. In Belgium, the environment where the TAM interrogation takes place has enough privacy and the officers do not wear uniforms, although this does not happen when the child victim files the initial report. According to the Belgian law the day of the interview, there are three spaces for minors: a reception room, an interview room and an observation room. In Estonia, the Children's Houses are placed in residential areas or in strategic locations, such as hospitals in order to be easily accessible via public transport and are inclusive for children with disabilities and/or special needs. There are separated, soundproof and private areas and Children's Houses' addresses are not disclosed to ensure the safety of children and employees.

In Estonia, Greece, Italy and Spain, in police stations, courthouses and prosecutor's offices there is lack of waiting rooms specific for child victims/witnesses (with some exceptions like Estonia's Children's Houses). However, in courthouses, sometimes as a protective measure, they are made to wait, if necessary, in other rooms (e.g., the library). In Spain, as a protective measure, children are made to wait, if necessary, in other rooms (e.g., library) and where they need to appear in court for the hearing, to avoid confrontation with the accused, sometimes opaque screens are used, or the statement is given through videoconference. There are insufficient resources. Gesell cameras are not available in all court locations, there are no professionally adapted rooms and the quality of the recordings is not always sufficient.

Given the aforementioned facts, there is a need for protected and fast access for child victims/witnesses, avoidance of confrontation with the accused person and no uniformed professionals. There is also need for waiting rooms exclusively designed for and adapted to children's needs (e.g. humanizing of spaces or the victim's architecture: paying close attention to the tone of the colors, the shapes of the furniture, the light, the temperature. It is recommended to rely on existing studies in the health sector, for instance, children's hospitals), close to the interview room, with direct or semi-direct access, and without being a passageway for other professionals.

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<sup>35</sup> European Union Agency for Fundamental Rights. (2015). *Child-friendly Justice: Perspectives and Experiences of Professionals on Children's Participation in Civil and Criminal Judicial Proceedings in 10 EU Member States*. Publications Office of the European Union.

According to ENCLAVE Project Benchmark Protocol, in Belgium –where there are 35 interview rooms available nationwide- and in Estonia, interviews take place near the minor’s house. The interviewing room meets all the necessary specifications: is soundproof; there aren't any toys or posters on the wall to avoid distracting the minor’s attention or stimulating fantasy, and all the necessary technological equipment is available (a microphone in the centre of the room and three cameras: one to record what happens in the entire room and the position of all people present, the second to record the interaction between the interviewer and the minor and the third camera films a close up of the child)<sup>36</sup>. In the observation room is located the technical equipment, where the director (second TAM interviewer) and the investigator (case manager) will follow-up on the interview and its technical issues. The interaction system between interviewer and observers is protocolized (in presence, at least one time per interview and before the interview starts, with no set limit). Similarly, in Estonia, there are special interview rooms, in the Barnahus (3 centers nationwide) and police stations (the four prefectures have such rooms). However, there are no specially equipped rooms in courts or in the Prosecutor’s Offices. If a child must testify in court, he/she must do that in the open courtroom or in the judge’s office<sup>37</sup>. In Greece, there is a gap between law and practice. According to provisions on Ministerial Decision 7320/2019 (FEK 2238/B/10-06-2019): they have natural light, good acoustics and sound insulation, are adapted to the age needs of the minor victim and witness of abuse, furnished and decorated in a friendly way but avoids stimuli that distracts attention, count with technical equipment (electronic audio-visual media). Currently, interviews are mainly held in police precincts, children are interviewed in the official’s office but sometimes there is no private office available. Consequently, privacy is not guaranteed. In Spain interviews mainly take place in courtrooms provided with CCTV, some courthouses and Prosecutors’ Offices are provided with Gesell chambers, but these facilities are not available nationwide and in all court locations. Usually, there are no professionally adapted rooms and the quality of the recordings (image and sound) is not always sufficient. In Italy the situation is similar to Spain. Usually, the protected hearing is carried out in the Court's premises (e.g., courtrooms, judge’s office). In bigger cities in relevant Court Districts, associations, NGOs, and other entities working in the field have taken care of furnishing and equipping at least one room in their own premises to be used for protected hearings and forensic interviews.

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<sup>36</sup> Balogh, K., & Salaets, H. (Eds.). (2015). *Children and justice: Overcoming language barriers*. Cambridge: Intersentia.

<sup>37</sup> Haruoja, M. (2014). Study on Children’s Involvement in Judicial Proceedings: Contextual Overview for the Criminal Justice Phase: Estonia. <https://op.europa.eu/en/publication-detail/-/publication/c239ba45-8f35-4394-82e6-ea55d44c090c/language-en/format-PDF/source-249044472>.

The aforementioned gaps identified in some of the participating countries underline the need for specific and child-friendly interview and observation rooms, where the testimony of the minor victims/witnesses of violence would take place. It is recommended that resources be reviewed and optimized by establishing a structured plan for the creation of rooms that can be easily accessed by the population as far as possible (e.g., people with reduced mobility, accessible via public transport). These rooms should also have the necessary technological equipment and communication mechanisms (e.g. cameras, microphones etc.) in order to assist in the collection of evidence and to preserve agile communication between different professionals; to guarantee a high quality of the interview and the protection of the procedural guarantees of the accused, minimizing, in this way, the number of children's testimony as well.

### **3.3 Protocols and Guidelines**

Subsequent to the policies, according to the relevant literature, practice and research, guidelines and protocols imposed by them are needed, since there is lack of corresponding protocols and guidelines (Ben-Arieh & Windman, 2007. Davidson et al., 2006. Katz & Kosher, 2020. Quas & Goodman, 2012. UNICEF, 2020. Wilson, et al., 2020). The development and implementation of such protocols and standard operating procedures would meet the need of professionals for defining the objectives, actions and responsibilities of the various actors, as well as clarifying how the protocol can be implemented and who is accountable for doing so (UNICEF, 2020).

These protocols, and especially protocols for forensic interviewing minor victims and witnesses of violence, should be structured, based on good practices, embracing all the necessary baselines concerning the justice process, the evaluation of the child victim, its comprehensive ability, emotional state and tailored needs, the provision of support services, the conformation of the appropriate conditions, and the settings for the interview. More specifically, these protocols should stipulate the:

- Appropriate support being in place before, during, and after criminal procedures. For instance, providing procedural (e.g., familiarizing minors with the court process, minimizing children's contact with the defendant while testifying), clinical (e.g., providing mental health services after children testify), or familial support (e.g., helping a non-offending caregiver provide support);
- Reduction of minors' need to testify multiple times, to multiple professionals and in multiple settings;
- Supplemental interviewing from other specialists for very young children or children with special needs;



- Careful and comprehensive collection of information and evidence, including predetermined scoring criteria to establish severity and categorization of abusive incidents, which can be computer-rated and readily shared with other agencies where appropriate;
- Elimination or minimization of children's appearance in court through legal accommodations, such as the use of closed circuit TV (CCTV) in place of face-to-face confrontation or videotaped forensic interviews used as evidence at the trial;
- Provision of information about the outcome of the case (Ben-Arieh & Windman, 2007. Davidson et al., 2006. Quas & Goodman, 2012).

According to ENCLAVE's Benchmark Protocol, in Belgium, the forensic interview of a child victim or witness is based on the NICHD protocol<sup>38</sup>. The TAM interview protocol is centered on the principles of non-suggestiveness and respect<sup>39</sup>. During the TAM interview legal provisions and rights are explicitly explained to the child in a child-friendly manner: reason for the interview; description of all the rooms; technical equipment; persons present and their role; right to be accompanied by an adult of choice or not; who can view the recording and reasoning for the recording; right to give consent for the recording (if she/he is 12 years or older) otherwise information of recording is enough; request at any time that the recording be interrupted; right to stop the hearing at any time; possibility to have free of charge a copy of the text of the hearing (children of 12 years of age or more or with cognitive capacities expected of children of 12).

In Estonia, there is no unified forensic interview protocol, although the Cognitive interview and NICHD protocol are known and used and a handbook for interviewing children and guidelines for interviewing children with special needs has been developed by the government.

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<sup>38</sup>Phase 0. Salduz : Step 0. Identity. The Salduz law foresees that before the forensic interview is initiated the minor has to be informed about the reason for their citation. Phase 1. Introduction.: Step 1. Presenting the premises; Step 2. Present legal provisions; Step 3. Make appointments; Step 4. Neutral subject, scan environment. Phase 2. Free Story: Step 5. Invite to a free story. Phase 3. Questioning: Step 6. Complete (Info already added in the free story); Step 7. Deepen info outside the free story); Step 8. Verify other file elements. Phase 4. Ending of the interrogation: Step 9. Presenting legal provisions; Step 10. Thank.

<sup>39</sup> The premise of being non-suggestive means that the interview is aimed at finding the truth and not at confirming one or more hypotheses. Being respectful means respecting the wishes and the rhythm of the child, which implies that no pressure should be put on the child.

In Greece, the Ministerial Decision 7320/2019 sets an evidence-based protocol funded on standardized protocols: NICHD, The protocol of the Child Advocacy Center of Alabama and The Memorandum of Good Practice of the U.K. This protocol defines the way of conducting the forensic interview<sup>40</sup>. However, in daily practice, this protocol is not applied officially and/ or uniformly.

In Spain, although there is no unified forensic interview protocol, the NICHD protocol and the Cognitive interview are known and used. Although the law contains the victim's right to participate, and the LO 8/2021 speaks of good treatment regarding adaptation in language and form, especially in police stations, there are no established mechanisms for transferring information in the appropriate form and language, which depends on the professionals in charge. There is no unanimity regarding the information provided to the victim regarding the development of the pre-constituted evidence nor regarding the victim's privacy. Improvements in procedural regulation have been incorporated by means of LO 8/2021 to ensure better protection of the victim's participation in intra-family cases<sup>41</sup>.

In Italy, as well as in Estonia, Greece and Spain, there is no unified forensic interview protocol. Some of the standardized protocols employed are the Cognitive interview, the Memorandum of Good Practice, the NICHD. When the interview is carried out fully and directly by the magistrate in charge, forensic psychologists are not “allowed” to follow a protocol. The victim is granted broad rights to information and participation from the preliminary investigations phase<sup>42</sup>, the victim is an eventual party of the trial, meaning that they *can* participate, but they *are not obliged* to do so. However, it is not envisaged that the minor could *refuse* to testify.

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<sup>40</sup> (1) The preparation of the minor victim: acquaintance with the interviewer, discussion of neutral topics, rapport building, illustration of the process, its aim, basic rules and principles. (2) The assessment of a minor victim's perceptual ability and mental state. (3) The methodology and protocols of forensic interviewing. (4) The examination of the victim's family: especially siblings, as well as examination of family environment, family history and especially history of abuse and/or neglect, mental health issues. (5) The preparation and examination of minor victims with disabilities, intellectual disabilities and neuro-developmental and mental health disorders. (6) The examination of minor victims from different cultural backgrounds: taking into consideration mother language; the peculiarities of its culture, its cultural and religious differences etc. and, if necessary, appoint an interpreter.

<sup>41</sup> Art. 416 CCP

<sup>42</sup> The inclusion of the victim among the trial parties took place following the implementation of the Directive 2012/29 / EU, which was received in the Italian legal system with the Legislative Decree no. 212 of 15.12.2015. Available at

There is a common concern with the applicability of standardized forensic interview protocols in cases in which the victims are small children, children with cognitive disabilities and other especially vulnerable children, and before certain types of crime where the facts are prolonged in time (e.g. lover boys), which require a higher degree of flexibility and creativity from the interviewer. In practice, the gender of the interviewer with respect to that of the victims is not factorized in any of the five countries, unless it represents a problem for the child victim.

In general, there are important gaps in relation to respect for the right to information for the victim/witness, with victims being instrumentalized and their dignity violated. The same applies to the right to accompaniment, which is limited by the obstacles it represents in the proper conduct of the interview. We also find more flexible positions on the privacy of victims, not protecting necessary but unrelated issues in the recordings.

In Spain, although there is no unified system or protocol at the national level on the participation of child victims in the justice system, specific protection measures have been developed, as well as numerous protocols, circulars and good practice guides, which still represent a fragmented child-welfare system for the care of child victims. According to the European Commission (European Commission, Directorate-General for Justice, Lloret, 2014), *“Some internal norms are only available to the authorities concerned and not available to the general public”*<sup>43</sup>. Consequently (and broadly speaking), there are no unified action or practice protocols in Spain in matters of CSA cases nor for CJS professionals nor for victim support professionals and neither multi-agency protocols. For instance, there is not a clear, consolidated, and homogeneous referral system in this field until the forensic interview is carried out. Nevertheless, victim support professionals do have standardized children information protocols as well as regulations concerning pre-trial visits to court facilities. Concerning the forensic interview, in the survey conducted for WP2 of the ENCLAVE Project, we asked participants whether there is a consensus in their organization on the use of a forensic interview standardized (structured) protocol or not and 60.871% of the forensic psychologists answered affirmatively (17.39% in a neutral way). When asked about the areas in which there is a specific protocol, there are different realities: specific protocol for sexual crimes (87%); age of the victim or witness (43.5%); domestic violence (39.1%); gender

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[https://www.europarl.europa.eu/RegData/etudes/STUD/2017/611022/EPRS\\_STU\(2017\)611022\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2017/611022/EPRS_STU(2017)611022_EN.pdf)

<sup>43</sup>Lloret Blackburn, R. (2014). Study on children’s involvement in judicial proceedings: contextual overview for the criminal justice phase: Spain, Publications Office.

<https://data.europa.eu/doi/10.2838/789>

perspective (21.7%); disability (8.7%); own protocol (4.3%), and no protocol on attention to the culture of origin. According to our survey, the protocol most used (73.9% of the answers from the forensic psychologists) is the NICHD (National Institute of Child Health and Human Development).

In Italy, protocols and guidelines are set out mainly for the forensic professionals, while lawyers rely on their Code of Ethics, and magistrates on the laws and the procedural laws. Overall, a better knowledge of the protocols, guidelines, Code of Ethics, and so on, followed by other professionals involved in the procedures is considered very useful.

Similar to Italy is the situation in Estonia, where legal and justice professionals rely solely on the law. Thus, in the absence of corresponding protocols and guidelines for the treatment of minor victims and witnesses of violence, it is hard for them to act in situations that are 'out of box'. Also low are the educational requirements for the forensic interviewers: only a special module (lasting only three weeks!) on interviewing minors should be passed in the Defense Academy; which although being a default accepted requirement, it is not sufficiently specified (there is said in general that an 'appropriate training' should be passed). Instead of forensic interview experts, the investigative authority in Estonian criminal proceedings regarding minor victims and witnesses of violence is the Police and the Border Guard Board (police unit). An investigative body shall perform the procedural operations provided in the Code of Criminal Procedure independently unless the permission of a court or the permission or order of the Prosecutor's Office is necessary. At the same time, police and lawyers rely, beside other legal texts, on the Code of Criminal Proceedings, and judges on the Court Act.

Belgium has a specific protocol for the forensic interviewing of child victims/witnesses. The interviewing protocol has been developed and is updated by the Behavioral Sciences Service from the Federal Belgian Police. It is drawn by evidence-based interviewing techniques and inspired by the NICHD protocol. It however, seems to present more flexible directives, in contrast to the strict interviewing plan present in the NICHD protocol. The protocol aims at reducing to a minimum the interventions with the child during the criminal justice proceedings. For that reason, it foresees for the audiovisual recording of the interview and the use of such interview (the recording and drawn report) as evidence in court, to minimize the presence of the child during the criminal justice proceedings. Central to the TAM protocol is the commitment to avoid contamination of the child testimony and secondary victimization through judicial intervention. The interviewing techniques, the adaptability to the child's needs, the audiovisual recording of the child's statement or the commitment to one forensic interview are clear efforts towards these commitments. However, respondents state that

secondary victimization can arise due to several events, such as the sense of impunity (conviction of the perpetrator is not guaranteed), unforeseen outcomes, or the victims not recognizing their victimization.

Overall, respondents report a high level of adherence to the TAM protocol. General satisfaction with the existence and functioning of the protocol by legal and justice professionals, more specifically trained TAM police officers, and public prosecutors and investigative judges who decide upon the enforcement of the TAM protocol. However, some interviewers state that the general training is focused on a perfect step-by-step interview and that reality often differs from an ideal situation.

As will be further explained in the next question regarding training, some interviewers have raised their concerns to the applicability of the TAM protocol to “non-ideal” situations. These situations have mainly referred to applying the step-by-step protocol with:

- Children with a developmental age below 6-8;
- Children with diverse disabilities or other especially vulnerable children;
- Children who do not seem to fit the model from the theoretical training: e.g. children who do not have hobbies, friends or further interests. This presents a challenge in the introduction phase, when interviewers are trained to build rapport with the child and test the interviewing techniques through the discussion of “neutral topics”, mainly school/friends, family and free time;
- Children victims of lover boys: These children often do not recognize their victimization and think of their experiences as an act of free will.

Respondents state that these kinds of cases are complex and victims might be coming back to the system, which means they’re interviewed multiple times. Children that get institutionalized for their protection often run away to their victimizers, and when they are found, their lack of trust in the system affects their willingness to collaborate.

In Belgium, the TAM protocol ("Techniques d'Audition de Mineurs/Verhoortechnieken van Minderjarigen") provides legal and justice professionals with clear guidelines on how to proceed with the interviewing of minor victims and witnesses of abuse and the conditions to be met for such a hearing. According to the TAM protocol, the child victim/witness is to be interviewed once by a trained TAM interviewer and that interview should be audio visually recorded (approval from the minor is needed when the minor is above 12 years of age) and used as evidence during criminal justice procedures. The audiovisual recording aims at avoiding repeated questioning of the child; however, in around 4% of cases a second interview is



required. Some studies show that even when repeated questioning was necessary, when that follow-up interrogation is carried out appropriately, secondary victimization can be avoided. Some interviewers have explicitly stated that in order to avoid secondary victimization, it is important to inform the child that the aim of the audio visually recorded interview is to avoid further questioning but to that, there exists a possibility that a follow-up interview could be necessary. Reception police officers who act upon the first reports are instructed not to take the minor's statement. However, some respondents have stated that in some cases it still occurs for reception officers to start a preliminary interrogation. Often the report is made by an adult accompanying the minor, in which case the adult's statement must be taken in the absence of the minor to avoid story contamination. Reception staff deals with a diversity of reports and are not required to have specialized training on CSA issues. A prosecutor states the desirability to include specialized sex inspectors in reception precincts: *"We now have these sex inspectors who intervene for acute sexual violence with the intervention of the Care Center. We should actually use them in our reception cooperation as well, that when a victim of sexual violence comes to report it to the reception, it is not the reception staff member who will act on the report, but actually the victim is asked to wait a little bit. Then the internal vice inspector is contacted and it will be that person with that expertise who will conduct a victim-centered interview to actually start avoiding secondary victimization"*.

The Belgian legal framework establishes that the audiovisual hearing shall be organised in the best interest of the child, regarding time and place. In practice, the forensic interview is often reported to be scheduled within the first days up to a couple of weeks later. However, respondents state that the practical context in which forensic interviewing is organized can have an impact on the scheduling of interviews. The availability of on-call systems (present in some networks of TAM interviewers) allow for practical benefits, such as easier scheduling of appointments, which in turn result in shorter waiting times for child victims from the moment of first report to the actual interview. Despite working in the best interest of the child, on-call systems are not a requirement at a national level. Respondents state that zones that do not count with this on-call structure report higher waiting times.

Lack of economical and personal resources hinder the performance of legal and justice professionals. The presence of prosecutors during the forensic interview is currently unthinkable for most magistrates, however desirable, due to lack of time and personal resources. Some magistrates even report not having enough time to watch the entire recorded interview, therefore relying majorly on the drawn report.

In terms of an all-embracing model, in Belgium, Care Centers after Sexual Abuse function as an all-in-one specialized care center for victims of sexual abuse where a multidisciplinary team

trained in these issues can provide with the necessary care for victims. Despite the implementation and success of the Care Centers, the geographical coverage at a national level is still in progress. The Victim's journey<sup>44</sup> can vary depending of when and where the victim reports the abuse (judicial sector or care sector), and whether the minor is in imminent danger. The aim is that whether the victim reports the abuse through the victim sector or the justice sector, a multidisciplinary cooperation will ensure the necessary support for the victim. In practice, the quality of the support received varies depending on geographical coverage of certain services and/or the efficient collaboration of these services.

According to ENCLAVE Project's Benchmark Protocol, in Belgium, since 2002<sup>45</sup> there is relevant regulation and clear criteria for the use of TAM<sup>46</sup> interrogation, according to which minor victims are never heard in court; usually they are not even present during the hearings. This judicial measure is obligatory addressed under certain offences and in others under the discretion of the public prosecutor or the investigative judge<sup>47</sup>. In Estonia, the article 70 of the

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<sup>44</sup> See BELGIUM\_Victim'sJourney.pptx in Teams under Documents>General>WP2>Collaborative work

<sup>45</sup> Ministerial Circular of 16-07-2001, approved by the College of Procurators General, on the audio-visual recording of the interrogation of minor victims or witnesses of crimes substituted by Circular Nr. 03/2021 from the Minister of Justice, the Minister of Interior and the College of Public Prosecutors relating to the audio-visual recording of the hearing of minors and vulnerable adults who are victims or witnesses of crime. The pursuant to Article 153 of the Law on the Integrated Police and Article 143ter of the Judicial Code, mandatory directive of the Minister of Justice of 01-03-2002, which determines the rules of cooperation, coordination and division of tasks between the Local Police and the Federal Police regarding missions of judicial police (Col 2/2002).

<sup>46</sup> TAM is short for "technisch audiovisueel verhoor van minderjarigen", or: technical audiovisual interrogation of minors.

<sup>47</sup>The offences for which an audio-visual recording of the interrogation is obligatory, unless the public prosecutor or the investigating judge decides otherwise by reasoned decision, taking into account the circumstances of the case and in the interest of the minor or the vulnerable adult, are the following: voyeurism and non-consensual dissemination of sexually explicit images and recordings; indecent assault and rape- Grooming; Fornication, corruption of youth and pimping; Female genital mutilation. The public prosecutor or the investigating judge may order the audio-visual recording of the interrogation of minor or vulnerable adult victims or witnesses of crimes as referred to in Article 91bis of the Code of Criminal Procedure: hostage-taking; incitement to fornication, pimping and advertising; Public indecency and child pornography; Deliberate infliction of bodily harm; failure to provide assistance; Neglect or abandonment of children or vulnerable persons in a state of need; Withholding of food or care from minors or vulnerable persons; abduction of minors and vulnerable persons; Trafficking in human beings and smuggling of human beings. The audio-visual recording of the hearing of minors or vulnerable adults who are victims or witnesses of offences other than those referred to in Article 91bis

CCP includes the specifications concerning the hearing of child witnesses, such as who can interview a child, when needs to be video recorded and how a suspect can ask questions to the victim. These measures are envisaged when the witness is up to ten years of age and repeated hearing may have a harmful effect on the mind of a minor, when the witness is up to fourteen years of age and the hearing is related to domestic violence or sexual abuse, when the witness is with speech impairments, sensory or learning disabilities or mental disorders. In Greece, Ministerial Decision 7320/2019 defines the approach and the form of the forensic examination addressed to minor victims and witnesses of abuse. As well as in Belgium, the forensic interview acts as pre-constituted evidence for child hearings for specific crimes and for serious circumstances<sup>48</sup>, except when the investigative judge or the prosecutor states something different. According to the law, the minor victim or witness of abuse recurs to the Independent Protection Units to testify. Children, who are victims of sexual crimes, are rarely ordered to testify in the courtroom, child victims of domestic violence are not summoned to trial<sup>49</sup>. In Spain, the recent regulation establishes the recorded interview as pre-constituted evidence in all cases when the victim/witness is less than 14 years of age for sexual violence crimes. However, victims/witnesses between 14 and 17 years of age are discriminated against based on age, as they are left without this kind of protection. In these cases, it is possible to make an assessment on a case-by-case basis, as was the rule of action previously to the new law. In Italy, the legal system does not provide clear and homogeneous indications regarding how to carry out the protected hearing. It usually takes place during the judicial phase; it is called special evidence pre-trial hearing (*incidente probatorio*). The *pre-trial hearing* is a judicial tool included in art. 392 c.p.p. anticipating the acquisition of evidence at the preliminary investigations phase, prior to the trial phase. Art. 498 paragraph 4 c.p.p., states that the interview of the minor victim or witness is carried out by the judge, who asks the questions proposed by the

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CCP may be ordered on account of serious and exceptional circumstances, which are assessed by the judge (art. 92§2 CCP).

<sup>48</sup> Trafficking for labour exploitation (Article 323 PC); human trafficking for the removal of organs (Article 323A PC)), sex tourism targeting minors (Article 323B PC); rape (Article 336 PC); insult of sexual dignity (Article 337 PC); indecent assault (Article 338 PC); seduction of children (Article 339 PC); abuse of a child (Article 342 PC); exploitation with abuse of power (Article 343 PC); incest (Article 345 PC); incest between relatives (Article 346 PC); indecent acts between men (Article 347 PC); facilitation of indecent acts (Article 348 PC); child pornography (Article 348A PC); pandering (Article 349 PC); human trafficking for sexual exploitation (Article 351 PC); indecent acts with children for consideration (Article 351A PC); acts facilitating illegal immigration (Article 87(5) & 6 and Article 88 Law 3386/2005 on entrance, residence and social integration of third country nationals in the Greek territory).

<sup>49</sup> Article 19 Law 3500/2006 'Combatting domestic violence'.

Prosecutor and by the defendant (through the lawyers). During this exam, the judge can use the help of a family member of the minor or an expert in child psychology. The victim is identified as an atypical vulnerable<sup>50</sup> victim by the Public Prosecutor, during the phase of the preliminary investigations and by the Judge, during the trial. The judge, assessed by the expert, can decide that it is not appropriate to interview the minor (even the protected hearing), or can consider the testimony not fully reliable, based on particular vulnerabilities and traumas suffered by the victim or the witness.

In the five countries studied the time lapse between the police report and the video recorded interview varies depending on circumstances such as: the crime, situations of special vulnerability (i.e., toddlers and pre-schoolers, children with disabilities), its (perceived) seriousness, the assessed urgency, the organization in place and the material and human resources available case by case. While in Belgium and Estonia the waiting times are per norm short, from the very same day of the first report to a couple of weeks later. In Greece, Italy and Spain it can take from 15 days to 1 month or even more.

Based on the aforementioned presented situation, except from the countries standing as good practices, the rest countries need to stipulate and/or clarify the use of the forensic interviewing, through specific protocols and guidelines for processes addressed to and professionals working with minor victims and witnesses of violence are required, including the following issues:

- Forensic interview protocols specifically for minor victims and witnesses of violence (e.g. to ensure adequate implementation of the forensic interview, it is necessary to address the interests of the victim in the courtroom but also to ensure that the recording can be appropriately used by the judiciary. The possibility to order that the child victim be heard using appropriate communication technologies);
- The objectives, actions and responsibilities of the various actors, as well as the implementation of the protocol and who is accountable for doing so, and
- The structure of protocols for forensic interviewing minor victims and witnesses of violence (including for instance the good practices, the necessary baselines concerning the justice

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<sup>50</sup> Atypical vulnerable victims: applied to minors and specially to child victims of sexual crimes, and sexual violence. Inferred from: age, state of infirmity, intellectual disability, type of crime, the modalities and circumstances of the fact object of the trial, whether the offense is committed with violence to the person or with racial hatred, connection to organized crime or terrorism, including international ones, or human trafficking, characterized by discrimination, and if the offended person is emotionally, psychologically or economically dependent on the offender.



process, the evaluation of the child victim: e.g. its comprehensive ability, emotional state and tailored needs, provision of support services, conformation of appropriate conditions, the settings for the interview etc.).

In Belgium, the contents of the forensic interview report, namely the main elements of the interview and possibly a transcription of the most relevant passages, are specifically regulated in the CCP<sup>51</sup>. The record should include all the necessary information (e.g. precisely the time the hearing begins, is interrupted and resumes, and is concluded; the identity of the persons participating in the questioning; the time of their arrival and departure; the particular circumstances and anything which may shed light on the statement or on the circumstances in which it was made). The report is delivered within 48 hours or immediately if the suspect is deprived of his/her liberty or for instance a VOS<sup>52</sup> case, meanings that the child has to be removed from the family or that a judicial investigation has to be conducted. Belgian regulation<sup>53</sup> also includes privacy protection measures, such as the number of copies of the hearing, the authorized persons allowed to watch the video recording and further notes that at the hearing the competent court may order that the proceedings be held in camera. In Estonia, the contents of the interview report consist of the minutes of procedural operations, including the transcription of the video recordings and the documenting and evidence collection. In Greece, although according to law the child's statement should be made in writing and recorded on an electronic audio-visual medium, replacing his/ her physical presence in the next stages of the justice process, in practice, this does not apply on a systematic basis. Usually, child victims' testimonies are on writing. On trial, every statement, either written or recorded, is always read aloud to the audience. As for privacy measures, police officers in charge of the preliminary investigation *"in domestic violence cases are prohibited from revealing the victim's name, address and any other elements which may disclose his or her identity"*<sup>54</sup>. *If they breach this obligation, they may be punished with imprisonment of up to two years*<sup>55</sup>. In Spain, until recently, the transfer of information has been observed to be inconsistent and sometimes unsatisfactory. The recent 2021 Law incorporates certain improvements that need to be

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<sup>51</sup> Art. 96 CCP and art. 47bis §6.1 CCP.

<sup>52</sup> "Verontrustende Opvoedingssituatie" or "Disturbing parenting situation".

<sup>53</sup> Circular 03/2021.

<sup>54</sup> Article 20(1) Law 3500/2006 'Combatting domestic violence'.

<sup>55</sup> Kaltsouni, S. (2014). Study on children's involvement in judicial proceedings: contextual overview for the criminal justice phase: Greece <https://op.europa.eu/en/publication-detail/-/publication/29a63840-96ca-4840-bac8-071e05e5262c/language-en/format-PDF/source-249044436>.



developed in protocols. In art. 449 the CCP states that *"(...) the judge, after hearing the parties, may request a report from the expert giving an account of the development and result of the hearing of the minor"*. In Italy, the contents of the interview report consist of the main elements of the interview and possibly a transcription. The protected hearings are fully transcribed by the judge's office personnel. In the five jurisdictions there is state regulation of the media to protect the identity of child victims<sup>56</sup>. However, there are gaps in the practical implementation of the aforementioned laws and regulations. Therefore, clear guidelines are required, addressing all these issues.

In this line, according to the Benchmark protocol, the following steps are required, along with the corresponding training:

- Create unified protocols to evaluate and monitor their proper functioning, drawing from their results objective conclusions for improvement. Thus, it is important to establish an appropriate balance between the use of clear, delimited and justified protocols, and to allow for their adaptation to the specific situation of the victim/witness.
- Establish selection and hiring criteria that incorporate the requirement of accreditation in the use of evidence-based interview protocols such as the ABE, NICHD or NCAC<sup>57</sup>.
- Ensure an adequate pre-assessment of the victim not only focused on her/his ability to recount the events but also in balance with her/his well-being and best interests as a child and victim, incorporating current knowledge on trauma.
- Create comprehensive protocols that allow for the collection of prior information to conduct high quality interviews in terms of content, reducing possible new complementary interventions.
- Respect the child's natural rhythm and avoid interviews late in the evening or at night<sup>58</sup>.
- Not to reduce child victims' rights to obtain information, which leads to their clear instrumentalization. It is therefore necessary to include adaptations of these rights in practice, and not to limit them.

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<sup>56</sup> Jurado, E. (2014). Summary of contextual overviews on children's involvement in criminal judicial proceedings in the 28 Member States of the European Union. European Commission, Directorate-General for Justice, 2014. <https://data.europa.eu/doi/10.2838/71517>.

<sup>57</sup> Achieving Best Evidence in criminal proceedings (ABE); National Institute of Child Health and Human Development (NICHD); National Children's Advocacy Center (NCAC).

<sup>58</sup> Protection of children against sexual abuse in the circle of trust: The framework (first implementation report of the first monitoring round), adopted by the Lanzarote Committee on 4 December 2015. <https://rm.coe.int/1st-implementation-report-protection-of-children-against-sexual-abuse-/16808ae53f>.

- The forensic interview is closely linked to other assessments (e.g., Credibility assessment, psychological, emotional and cognitive sequel assessment, assessment of the capacity to testify in court, child custody evaluations and protection measures on trial phase) that should be foreseen in the interview protocols (I) to reduce interventions with the child, (II) to provide coordinated responses to the judicial process and victim protection measures, (III) to secure the assistance of other experts in the observation room and (IV) to facilitate the recording for analysis from another perspective (e.g., credibility expert report).
- It is necessary to delimit what corresponds to an assessment of the victim's capacity to testify and their age maturity and what corresponds to the forensic interview. The meeting (sometimes called exploratory interview) may in any case be recorded in its entirety.
- In some cases, the judge requests an expert report on the Credibility of the testimony of the child. A review of the tools used for this end from trauma literacy, gender perspective and the child victim perspective are recommended.

### **3.4 Training of professionals**

According on the relevant literature and research, and based on the identified lacks, there is a need for professionals' training on:

a. Fundamental knowledge regarding:

- the civil and criminal law and the legal provisions regarding child abuse;
- the professional main principles and values, and how these impinge upon practice;
- the phenomenon of child abuse: victims, offenders, its characteristics and manifestation, its consequences (understanding its complexities and responses to trauma) and the impact of trauma;
- the characteristics of disclosure;
- the characteristics of secondary victimization;
- the recognition of the potential risks when engaging with the CJS;
- how wellbeing is affected when the best interest of the child is not maintained, and
- the basic counselling skills.

b. Fundamental skills regarding:

- the basic counselling skills;
- respectfully dealing with victims;
- the expression of sensitivity, empathy and compassion;
- the rapport building, reduction of anxiety, questioning styles and willingness to let young people have a supporter present;
- the cooperation and collaboration with relevant professionals and services;
- the professional boundaries, blind spots, stereotypes and prejudices;

- the role description, asking for help, and the supervision.

c. Knowledge of minors' characteristics and skills regarding:

- the interactions with children;
- the acknowledgment of children's resilience and strengths;
- the memory, credibility and suggestibility of children;
- the developmental stages of children;
- the special needs of children with disabilities, with intellectual disabilities;
- the effects of culture;
- the equitable responses to the gender;
- the attitudes and beliefs of professionals towards children (e.g. being considered as 'problematic', 'vulnerable' etc.) and ways of addressing them;
- the acknowledgment of the negative emotional, psychological, behavioral and educational consequences of stigma and the feelings of shame and guilt resulting from its internalization, and
- the methods of tackling stigmatization.

d. Specialized Knowledge and skills regarding:

- the recognition of child abuse;
- the safety planning;
- the acknowledgement, recognition of signs, prevention and/ or making amends for secondary victimization;
- the purpose of the child forensic interview;
- the models and the protocols of the forensic interview;
- the best practices available for interviewing minors in cases of alleged abuse;
- the establishment of valid and reliable information from children;
- the use of practical tools, such as dolls or personality tests;
- the forensic interview's principles, basic rules and considerations;
- the structure and stages of the forensic interview;
- the recognition of true and false allegations;
- the avoidance of traumatizing attitudes or modes of questioning, such as treating victims with disbelief, victim blaming, inappropriate and insensitive behavior or language etc.;
- the balance in interview pace and format between searching out the factual nature of recent events, and providing a secure and sensitive environment in which the child can be open and protected from overwhelming feelings of guilt and self-blame and reactivation of trauma responses, and

- the balance between semi-structured interviews for eliciting factual information and procedures and skills in listening empathically and encouraging response (Beckett & Warrington, 2015. Ben-Arieh & Windman, 2007. CoE, 2006. Davidson et al., 2006. Reimer, 2015. Katz & Kosher, 2020. Roque et al., 2014. UNICEF, 2021. UNICEF, 2020. UNODC, 2019. UNODC & UNICEF, 2015. Van Niekerk & Coetzee, 2020. Wilson et al., 2020).

According to professionals' needs, training must be evidence-based, very practical, regularly reviewed and updated; while accompanied by ongoing support and supervision that acknowledges the challenge and impact of this work (Beckett & Warrington, 2015. UNICEF, 2020).

According to the European Commission (2014), in Spain, *"Criminal proceedings against child offenders are conducted by specialized magistrates - the Judges for Children. In such cases, the Law requires a specialization of the Judges, Prosecutors, and Lawyers involved and make their respective governing boards responsible for organizing training programs. Beside specialization courses, previous professional experience working with children and/or scientific studies or papers presented or published on this matter are also taken into consideration"* (European Commission, Directorate-General for Justice, Lloret, 2014)<sup>59</sup>. However, as already mentioned, this is not the case when the victim is a minor. Being a recent law, there is no homogeneous training at the national level, while specialization or accreditation of previous experience is not required. For instance, training in forensic psychology is generally not required, although it is preferable. Furthermore, no membership of a professional association is needed, while no specialized training is required for the judicial defender, although specialized training is required for the legal profession (which is currently insufficient). LOPIVI now requires training for judges, prosecutors, and lawyers. Although it is insufficient because it recognizes it as something general, for the time being, as long as we do not have further development of specialized courts. Some of the findings from the ENCLAVE Project's WP2 interviews with stakeholders (specifically judges and prosecutors) are supported by the findings of literature research. More specifically, they indicate that the lack of specialization is overcome by trusting in common sense, practice, life experience, instinct, sensitivity<sup>60</sup>, reading scientific articles and

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<sup>59</sup> Lloret Blackburn, R. (2014). Study on children's involvement in judicial proceedings: contextual overview for the criminal justice phase: Spain, Publications Office.

<https://data.europa.eu/doi/10.2838/789>

<sup>60</sup>Roque, E.M.S.T., Ferriani, M.G.C., Gomes, R., Silva, L.M.P. and Carlos, D.M. (2014) Justice System and Secondary Victimization of Children and or Adolescents Victims of Sexual Violence in the Family. Revista Saúde e Sociedade, 23, 801-813. <http://dx.doi.org/10.1590/S0104-12902014000300006>

books within the law and other areas such as forensic and clinical psychology<sup>61</sup>, requested to or suggested by other peers or professionals. The survey conducted for ENCLAVE lead to the conclusion that some professionals do not make use of the available tools like the forensic interviewing not only due to a lack of resources (whether material and/or human) but also due to lack of confidence in their results and to many tensions with respect to due process. The law 8/2021 also provides for specialized training in children's rights for the Judiciary, the Public Prosecutor's Office and the Bar and reiterates the obligation to have specialized police units. Despite the existence of these specialized units and the fact that the law establishes clear criteria for action, we suggest that the number of specialized police units is scaled up. "The continuous trainings for judges and prosecutors take place through specific courses organized by the General Council of the Judiciary (*Consejo General del Poder Judicial*) and Center of Legal Studies (*Centro de Estudios Jurídicos*)"<sup>62</sup>. These trainings have already begun, but they are eminently theoretical.

In Estonia, there is possibility that a body conducting proceedings has not received appropriate training (law specifies that in this case involvement of a child protection official, social worker, teacher or psychologist in the hearing of a minor is mandatory), however, in some articles 'appropriate training' is pointed out if working with cases involving minor victims and witnesses.

In Belgium, the police officers who aspire to become forensic interviewers of child victims and witnesses of abuse receive quite adequate level of training regarding fundamental knowledge and fundamental skills, while knowledge of minors' characteristics and skills, is the one that presents the biggest gaps in training. From the interviews carried out with forensic interviewers, we see a recurrent need to deepen training on the following aspects:

- Applicability of the protocol to younger children:

Interviewers have stated their concerns about the applicability of the protocol to very small children. While some children seem to adapt to the interviewing technique, others struggle

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<http://www.scielo.br/pdf/sausoc/v23n3/0104-1290-sausoc-23-3-0801.pdf>

<sup>61</sup>Korkman, Svanbäck, J., Finnälä, K., & Santtila, P. (2014). Judges' views of child sexual abuse: Evaluating beliefs against research findings in a Finnish sample. *Scandinavian Journal of Psychology*, 55(5), 497–504. <https://doi.org/10.1111/sjop.12147>

<sup>62</sup>Lloret Blackburn, R. (2014). Study on children's involvement in judicial proceedings: contextual overview for the criminal justice phase: Spain. <https://data.europa.eu/doi/10.2838/789>



with concentration, understanding the dynamics of the protocol, thinking in episodic memory, sitting still, etc.

*"To my knowledge, the only thing that can be noted is that the system is not applicable in all situations. (...) You do have to give a very long explanation to the minor, which does reduce their attention span. So it could be shortened a bit, because it already takes 10 minutes just to do that explanation. Not every minor is made to sit still and listen. I find that explanation somewhat superfluous."* (TAM interviewer)

*"I think the protocol can work from the age of seven if the children have the mental capacities. Below this age, it's almost impossible to do the interview according to this protocol. (...) The small ones are sometimes very cute and they run around, they don't sit down on the chair, like you ask. Some colleagues ask me "Do I let them run around, do I always ask them to get back on their chair?". So, plan A is good, but we need more tools for when plan B is necessary."* - (TAM interviewer)

➤ Applicability of the protocol to children with disabilities and/or other special needs:  
Just like very small children, children with disabilities and/or children in vulnerable situations often require an adaptation of the protocol to their special needs. Some interviewers and teachers have stated that the basic training covers some of these issues in a general and theoretical manner but that it often does not seem sufficient to conduct these interviews, therefore relying on the experience of the interviewer.

*"During the training we actually received some tips and tricks on how to best deal with children with a mental disability. I think it would be nice to go a little deeper into that. (...) We did get explanations about it and theory, but during practice or during training we did not practice it specifically. During the training, we play minors ourselves using role plays, but there is no one with a mental disability among them. If I'm honest, I don't think we have enough training in that area."* (interviewer)

*"You can know in theory what autism is and what the characteristics are, but in the practice it's not always the same. I learned that talking to the teachers who work with the minors can be very helpful, because they know how to best approach the minors in the practice. It's different for each child. But I think some more information about children with autism, ADHD or mental limitations would be helpful. We got a course about it, but it was really theoretical. When you do the interrogation itself, you have to solve the problem on the spot and that's not always easy. I think it would be helpful if we had some specialists in psychology or psychiatry or people from other cultures."* (interviewer)

*"In the basic training you train about children who have normal intellect, who have a lot of hobbies and a lot of interests. And my first interview was a 15 year old girl, I give all my explanations and I then I want to use the switch to let her talk so I ask her what do you like to do in your free time and she said nothing. I asked you have some hobbies; No; A lot of, especially*

*those teenage girls who are victims of crime they live in situations that are not good with poverty and they don't have fancy hobbies to talk about. That was a wakeup call."* (interviewer)

- Practicalities of the step-by-step plan (what to do when the step-by-step protocol does not seem to work?):

*"On the other hand, I know that a criticism from the students is that, we teach how things can go in the perfect situation, with that step-by-step plan. And sometimes there are just situations where the minors don't understand. For example, if their mother tongue is not Dutch, it's already more difficult, if they're under the age of eight it can sometimes be more difficult to understand a technique. So there should be some room for the extreme cases to be dealt with once more. On the other hand, we can't write a book about every exception that there is, because every minor reacts differently to it. But I know that that is one of the needs of many students, that they say, now we thought we had just mastered the step-by-step plan and the first interrogation I do, well, the little one doesn't get it."* (trainer)

- Applicability of the protocol to certain crime typologies:

Certain typologies of criminality such as grooming, cyber bullying and lover boys present added challenges to the protocol, partly due to the lack of one distinct criminal event, but the presence of a continuum of actions that characterize these crimes.

*"I find it very difficult to interview victims of teenage pimps in a TAM/ audiovisual interrogation, according to that a technique. In my mind, that's not a good technique to interrogate victims in that. And I know other colleagues in our department feel the same way. Because, that's a different kind of investigation that you have to conduct anyway and you just have to ask a lot of questions to that minor there. Those cases are also so complex. (...) Because of too many facts and also, those girls, they often don't remember what happened first, with whom and how that followed on from each other. And usually there's not just one fact of a rape, then usually that rape is accompanied by all sorts of things, like beatings or extorting money or clients that they then have to do anyway, even during that first date."* (interviewer)

- More attention to crime typologies and their investigation procedures: Some teachers and prosecutors have stated the desirability to pay special attention in the general training to crime specificities and relevant elements to look for during the TAM interview in view of the investigation process. Trainers present concerns regarding the preparation of novel interviewers, as relevant aspects for the investigation are learned through experience.

*"It sometimes depends on little things if a suspect is going to court or not. So sometimes in the interrogations, I miss a little bit more that they [interviewers] know about these crimes and what specific details they have to know to start an interrogation about rapes and things like that. Because if you don't get it there, you will never get it because it's a one-time shot to interrogate a child. So it's important that they know the law and know what they have to ask. That's something I miss in the big education."* (trainer)

*"I've noticed that it's still a bit of a guess as to the exact period or moment when the facts occurred. And often I think TAM interrogators are not always aware of that. Sometimes they are already satisfied if that story has come out and if the minor has talked about it fluently; but then it sometimes remains a bit unclear of, when exactly did these facts occur? And I've had that happen a couple of times, that I thought, well, why didn't they go into this in more detail?"* (prosecutor).

The following aspects are vaguely addressed during training and/or require deeper attention: the acknowledgment of children's resilience and strengths;

- the special needs of children with disabilities, with intellectual disabilities;
- the effects of culture;
- the equitable responses to the gender;
- the acknowledgment of the negative emotional, psychological, behavioural and educational consequences of stigma and the feelings of shame and guilt resulting from its internalization, and
- the methods of tackling stigmatization.

Regarding *specialized knowledge and skills for treating minor victims and witnesses of violence*, TAM interviewers present a good level of knowledge in most of the contents. However, limited knowledge is presented on the following items:

- the safety planning
- the acknowledgement, recognition of signs, prevention and/ or making amends for secondary victimization;
- items referring to the recognition of true and false allegations, and the use of personality tests, are not addressed by forensic interviewers. Forensic interviewers do not carry out Credibility Assessment reports, which are occasionally demanded by the prosecutor and carried out by an expert psychologist/psychiatrist.

Just as specifically trained TAM police, public prosecutors and investigative judges in Belgium are allowed by law to carry out the forensic interviewing of child victims/witnesses of abuse. Training of public prosecutors and investigative judges on the TAM protocol is more limited than that of trained police staff. The yearly upgraded training of TAM police and their growing expertise through recurrent practice makes them the best-suited legal professionals to carry out forensic interviews with minors. In practice, public prosecutors and investigative judges, thus rely on the trained police staff to carry out the audio visually recorded interview of child victims/witnesses of abuse.

*"The training that we got at the time years ago was not that specific. That was generally about a victim's perspective, interfamilial violence things like that, but now at this time we are*

*required to have specialized training. That will be after the judicial vacation, on sexual violence, that's a three-day training."* (Investigative judge).

Belgian reception police have specific guidelines on how to proceed in cases of reporting of a serious crime with a child victim or witness. First line police officers are told not to take the statement of the child themselves and to hear the accompanying adult separately, which according to some respondents does not always happen. They are instructed to notify the public prosecutor's office immediately. However, it is unclear which specific knowledge they have on child victims. They also have a mandatory mandate to inform about the possibility to refer to victim support services, from within the justice system and outside, the possibility to become a civil party in order to receive further information on the process and participate in the process, and institutions where they can be helped further and get a copy of their statement. However, there are some doubts about the extent to which this takes place in practice.

Some respondents have stated the desirability of including specially trained sex inspectors in reception precincts to carry out first reports of child abuse to ensure a good support since the first contact. This situation is currently not systematically ensured. Some interviewed forensic interviewers state their concern with the quality of the provided service.

To sum up, and according to ENCLAVE's Benchmark Protocol, in Belgium, police officers receive one-year training, with barely any specialization during the course. Specialization is done afterwards, mainly on a voluntary basis. The specifically trained police officers in charge of the video recorder interview with children are the TAM interrogators. Some hold a wide variety of specialties within the force (e.g., psychologist, criminologist) and most have a frontline function within the police in intervention or specialized teams (e.g., domestic violence, vice crimes, human trafficking, prostitution and family crimes). Their compulsory specialized training has 116 hours duration of theory and practice. The contents include: the legal framework of the TAM interrogation, child development, language of and communication with children and child victims, introduction to language learning behavior and language development, children with mental disabilities, psychological profiles and sexuality of the child, problems of mistreatment and abuse, profiles of the perpetrator of sexual abuse, roles of the expert, drawing up specific reports, the importance of social media, role-play interrogations, working with interpreters. New TAM interrogators immediately join a TAM network and are paired with a more experienced interviewer, as they work in pairs (the Interrogator in the interview room and the Director in the observation room). TAM interrogators are required to do a minimum of 10 interviews a year. As for continuous training, each TAM interrogator must attend compulsory



training every year, there are local (twice a year) and national (once a year) intervision days, where interrogators, trainers and coordinators meet to engage in intervision of their cases and to freshen up their techniques via role-play and to update the interrogator's training. Prosecutors and judges are allowed by law to interrogate minor victims if considered necessary but in practice, they rely on the TAM qualified police officers to interview child victims and witnesses. Prosecutors attend a compulsory five-day training course on domestic and sexual violence. Magistrates are compulsory attending a 3-day introductory course on sexual and intra-family violence. Judges with a specialty in youth and family crime are obliged to do an intensive course of 5 days on sexual violence and interfamilial violence.

In Estonia, specially trained police officers conduct the investigative interviews of children less than 14 years. Police officers receive 3-year training in the Estonian Academy of Security Sciences. The specialized police officers must pass a compulsory three-week capacity-building course organized for investigators who focus on offences against minors, at the Estonian Academy of Security Sciences. Sometimes psychologists attend and assist to the interview, but there is no legal obligation. Although the division of tasks plan ensures specialization of judges in matters involving minors, only some county courts follow this principle and in some regions, there are not judges specialized in matters involving minors.

In Greece, according to the Greek legislation, in child abuse crimes, only psychologists or psychiatrists specifically trained on the field should have the authority to interview the minor victims or witnesses of abuse. Especially in crimes of sexual abuse, the law stipulates that an expertized psychologist must be present, accompanying the police officer during the collection of the testimony. In practice, interviews are primarily conducted by police officers on duty when the victim arrives, and who is not necessarily qualified for this task. In some units, there are some police officers in charge of this procedure, but the selection for this role depends mostly on the professional experience of the police officer. There is group of five psychologist trained in the USA on issues regarding forensic examination by the best international training centre, The National Children's Advocacy Centre in Huntsville, Alabama. In rare occasions, the public prosecutor asks these highly specialised professionals to be the forensic interviewers in child abuse cases. In extremely rare occasions, child psychologists and child psychiatrists, or in their absence, psychologist or psychiatrist in the list of experts participate in the testimony phase as external contractors. However, even in those cases, the role of forensic- or child-psychologists is supplementary. Moreover, official training for police officers in terms of CSA cases virtually does not exist nor in terms of their basic education as police officers, neither later during their career. Specialized training for judges and prosecutors is not mandatory. Not even for Juvenile investigating judges, although to be appointed as one a five years' experience,



voluntary trainings from the National School of judges, a PhD or a master's degree on juvenile justice are considered<sup>63</sup>.

In Spain, forensic psychologists conduct the forensic interview but there is a significant regulatory gap in this regard, which leads to great difficulty in supervising the overall specialization of forensic interviewers. Specialization or accreditation of previous experience is not required. While many forensic interviewers are highly specialized, this is not required by law and many of the public contracts do not require it and a membership of a professional association is also not needed. There is also a lack of human resources, which leads to few stable working teams. Some forensic psychologists work in pairs. Continuous training is not regulated and depends on the practitioner. The specialization in children's rights in the Judiciary, the Public Prosecutor's Office and the Bar has been incorporated since 2021 and adequate training of specialized police units was observed in previous years, there are specialized police units that deal with child victims and/or offenders.

In Italy, the law established that the professional in charge of the interview is the magistrate with the support of a forensic psychologist, child psychologist or psychiatrist or a qualified social worker. They can come from public institutions or from the private domain –in most cases, they work in NGOs dealing with minor victims of crime–. Usually, magistrates do not have specific training and are not aware of the criticalities of this kind of interview. A specialized CV for the forensic psychologist is not requested and neither the attendance to CSA training courses, as this is done voluntarily. Nevertheless, there are main guidelines –The Noto Charter, SINPIA Guidelines, National Guidelines– in selecting experts and professionals for the protected hearing that have been set out by professionals' associations. Their authority is recognized by the judiciary, the Supreme Court and law enforcement agencies. As for continuous training, experts are required to ensure their constant interdisciplinary professional updating, yet the attendance of training courses in the field is not requested and is not a selection criterion. Moreover, although there are judicial police units specialized in juvenile justice, there is no compulsory training in CSA for LEA officers, judges and prosecutors.

Based on the identified lack in the knowledge, competences, and skills of professionals working with minor victims and witnesses of violence during the ENCLAVE Project's research, the training needs of legal and justice professionals are formed as follows:

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<sup>63</sup> Kaltsouni, S. (2014). Study on children's involvement in judicial proceedings: contextual overview for the criminal justice phase: Greece. <https://op.europa.eu/en/publication-detail/-/publication/29a63840-96ca-4840-bac8-071e05e5262c/language-en/format-PDF/source-249044436>.

Fundamental knowledge and skills for all professional groups:

- Training on **children's rights and interests** to change the focus from an adult-centered perspective to a child-centered approach, consequently allowing for safe and secure participation of children;
- Review of the **different types of interviews**: forensic interview and clinical interview:
- Difference of objectives and purpose;
- Impact on the mental health of the victim and knowledge of good practices;
- Impact on the process and knowledge of good practices;
- Use of the information collected: good practices to reduce the number of interventions, and
- Example reports from each interview and justification of the methodology and forensic and clinical tools used.
- **Detection of situations of special vulnerability** and appropriate referral to specialized professionals: Whilst LO 8/2021 automatically recognizes pre-constituted evidence by means of the forensic interview for victims less than 14 years of age in sexual offences, it does not do so for victims between 14 and 18 years of age. This means that in practice its use must be justified in this age range, so it is important that legal operators know how to assess each situation properly.
- **The time factor** on the child victim and on its testimony: cognitive evidence and subsequent deterioration before multiple and inappropriate interventions.
- **The meaning and impact of Child-friendly justice in practice**: access to justice (rights, environment, adaptations, protection measures), support from specialized professionals, coordination of procedural and extra-procedural measures.
- **The child victim journey**: knowing the complete journey of the victims and all its possible deviations, the role of the different professionals in it and the link between the different interventions (procedural and extrajudicial).
- **Cooperation and collaboration**: Knowledge of the impact of their own actions on the victim and the role and work of the different professional groups involved.
- **Multi-institutional training**: understanding the complexity of the balance between “the penal logic and the treatment logic”<sup>64</sup>. Cross disciplinary terminology.

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<sup>64</sup> Johansson, S., & Stefansen, K. (2020). Policy-making for the diffusion of social innovations: The case of the Barnahus model in the Nordic region and the broader European context. *The European Journal of Social Science Research*, 33:1, 4-20, DOI: <https://doi.org/10.1080/13511610.2019.1598255>

- **Counseling skills:** rapport building, empathy, active listening, paraphrasing, proxemics, open questions, trustworthiness, understandable language (simple and accessible).
- **Detection of unconscious biases, blind spots, stereotypes, and prejudice:** racism, gender perspective, ableism, cultural differences, ageism, child-friendly professional attitudes, availability bias.

- Specialized knowledge and skills for treating minor victims and witnesses of sexual violence

Judges, Magistrates, Prosecutors, LEA officers:

- Developmental psychology, psychosexual development, psychological processes (e.g., attention, memory), and executive functions.
- Applied testimony psychology.
- Trauma informed approach. Basic knowledge of the impact of violence in children and adolescents.

Interviewers: Forensic psychologists and specialized police units officers

- Training in forensic psychology and clinical child psychology. Although the work logics differ (help legal practitioners in decision making and diagnosis and treatment), some interdisciplinary techniques are needed: emotional containment, cognitive-behavioral strategies, use of relaxation techniques in case of activation, attention to signs of emotional distress, taking into account dissociative symptomatology in the credibility analysis of testimony (memory gaps, lapses, contradictions), taking into account post-traumatic symptomatology, assessing post-traumatic stress disorder<sup>65</sup>.
- Training on assessing the capability to declare and justification of the protocols used to assess it.
- Detecting and assessing partial contamination of the testimony of children and adolescents and the possibility to be used as evidence.

All professionals:

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<sup>65</sup> Although there is no single, psychopathological profile associated with child sexual abuse: there are many variables that modulate the psychic impact of a victim exposed to a situation of sexual victimization (they can sometimes be asymptomatic). See at: Scott, M.T., Antonio L. Manzanero, José Manuel Muñoz, y G. Köhnken. «Admisibilidad en contextos forenses de indicadores clínicos para la detección del abuso sexual infantil», Anuario de Psicología Jurídica, n.º4 (2014): 57-63.

- Specific knowledge on victimization, gender perspective, disability, etc.
- Attention to bad practices that have an impact on secondary victimization.
- Differentiate sensitivity from specialized training.

At this point, it is worth mentioning that the training needs of legal and justice professionals involved in cases of child abuse were similar between most participating countries, namely Estonia, Greece, Italy, and Spain; underlining a need for mandatory; interdisciplinary; frequently updated, and practice oriented and gender-sensitive training. Updated and international standards and case law should also be introduced.

More specifically, all the participants from Italy agreed that the training provided to the different professional groups is neither sufficient nor adequate. In the same line, Estonian professionals expressed a need for development of training materials and interdisciplinary training. It would provide legal and justice professionals more knowledge regarding psychology and child psychology, social work and victim support. Specialists in the network would gain better knowledge of the law, and professionals who work with minor victims and witnesses of violence would know more about the rights of minor victims and witnesses of violence and specificity how to protect these rights. However, we should note that not all the professionals from Estonia agreed that the training need is a priority issue for them. In the same vein, in Spain, although specialized training in children's rights for the Judiciary, the Public Prosecutor's Office and the Bar is stipulated by this law, the trainings carried out so far are eminently theoretical. Therefore, practical training can go a long way in bridging the gap between the law and its daily implementation by legal practitioners. Therefore, a combination of practice and theory would be optimal given the recentness of the OL 8/2021, including for instance:

- Training on the law and on the linkage of these measures and victims' rights, and
- Training to interpret the new law in accordance with Directive 2012/29/EU: connecting the measures recognized in the Law with the rights, needs and interests recognized in the Directive (transposed in the Law 4/2015, of 27 April, on the standing of the victims of crime (LEVID)).

It is obvious; by the abovementioned findings, that specialized training for the professionals involved that would fill the gaps in the knowledge and skills of professionals is required. Professionals should also be trained on their roles and on cooperating with other professionals and agencies towards the best interest of minor victims/witnesses of abuse. Even when training is provided, reviewing and supervising the basic training in the care of child victims/witnesses, facilitating the task of professionals by means of support guides (do's and

don'ts), clear structures for referral and practical training, ensuring adequate communication with the child when appropriate are also needed. Adequate training should include the deconstruction and avoidance of bad practices, false beliefs (e.g., ideal victims) and mechanized responses. Moreover, there is a need for establishing strict recruitment systems regarding professional training, as the lack of specialization of the professionals distorts the results and the very purpose of the forensic interview. In addition, professionals' training should include sufficient knowledge of trauma and the impact it has on the assessment of the conduct of the forensic interview and the impact it has on the outcome. It should also include basic notions about the victim's journey, to be aware of previous interventions and the impact of the outcome of their work on both the victim and the process. Thus, joint training in multidisciplinary teams is fundamental in this respect. The required training must provide professionals with a critical perspective and the ability to adapt the techniques learned to the specific case.

### **3.5 Multi-agency cooperation**

The relevant literature and research on professional needs indicate that there is lack of policies, protocols and guidelines regarding the multi-agency cooperation in cases of minor victims and witnesses of violence, as well as lack of training on networking and collaboration among professionals and services involved in such cases (Davidson et al., 2006. Gekoski et al., 2016. Roque et al., 2014. UNICEF, 2020). As a matter of fact, the existing system doesn't seem to foster nor support the multidisciplinary approach that would ensure the protection of the rights of the child; the CJS's links with the social sector are insufficient, since its responses remain largely isolated from social sector responses; while there is lack of formal and effective coordination mechanisms with adequate geographic coverage (Davidson et al., 2006. Gekoski et al., 2016. Roque et al., 2014. UNICEF, 2020). Implementing such partnerships could enable institutionalizing professionals' capacity building, and recognizing the specific skills required in this field, as professionals from law enforcement, medicine, mental health, the legal profession, child protection, and victim advocacy would work together to provide forensic interviews, victim support, case reviews and tracking (Gekoski et al., 2016. Roque et al., 2014. UNICEF, 2020). As a consequence, there is a need for stronger links and a holistic approach promoting minor victims and witnesses' of violence recovery, encompassing a continuum of interventions, namely before, during and after criminal procedures (UNICEF, 2020).

According to Haldorsson (2020), "There has been an increasing recognition that multidisciplinary and interagency collaboration is crucial to fulfilling the rights of child victims



and witnesses of violence to protection, participation, support, and assistance<sup>66</sup>. Even though the LO8/2021 tries to prevent underage victims from having a fragmented system, in Spain, a comprehensive care system is in the making. Thus, there are no holistic approaches ensuring the protection of minor victims and witnesses' of violence rights and the continuity of interventions. However, there are multidisciplinary and interagency initiatives in the local level, as for instance Madrid's Juvenile Prosecutor's office, the specialized Court specialized in Violence against children and adolescents In GC (the possibility of extending this pilot project to other ACs) and different Barnahouses initiatives in some ACs. Regarding cooperation among services involved in cases of child abuse in Spain, the interviews conducted for WP2 of the ENCLAVE Project revealed distrust and tensions between some professional groups, as well as a lack of coordination between procedural and extra-procedural measures. As a consequence, the need of the formation of relatively stable work teams that work in the same place, or have meeting points for this purpose, is essential. This is necessary so that each professional group stops working focusing solely on its own objectives: they must know the objectives of the other professionals and work as a single team in order to provide a coordinated response to the victims.

In Italy and Greece, likewise the implementation of the law and the policies available and applied, multi-agency cooperation is also an aspect considered to be not coherent neither homogeneous in the country. It is strongly impacted by lack of corresponding training and resources and budgetary constraints, most of all when involving private actors/institutions and NGOs, and in too many cases is simply devoted to the good will of the people involved.

In Belgium, the 2010 Protocol on Child Abuse provides with clear guidelines for the joint cooperation between all relevant stakeholders in the aim to effectively address the complex phenomena of child abuse. In the protocol, the ministers commit themselves to: 1) the organization of a structural consultation on child abuse at the Flemish policy level; 2) promoting and organizing consultation on child abuse in welfare teams within the existing district councils for victim policy; 3) promoting sensitization, information and training; 4) the dissemination of a "step-by-step" plan for child abuse which works as a code of conduct for quality intervention in the form of a common guideline.

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<sup>66</sup> Haldorsson, O.I., (2020). Barnahus Quality Standards: Guidance for Multidisciplinary and Interagency Response to Child Victims and Witnesses of Violence. *Council of the Baltic Sea States Secretariat and Child Circle*. Available at <https://www.barnahus.eu/en/wp-content/uploads/2020/02/PROMISE-Barnahus-Quality-Standards.pdf>

The step-by-step plan is of particular interest for understanding how the victim support and the justice sectors work in parallel and how and when their efforts can be combined when addressing child abuse issues. The plan states that each intervention (ideally) follows five sequential steps: 1) information; 2) concrete advice; 3) reporting; 4) diagnosis and examination; 5) care plan and follow-up/prosecution and execution of sentence. The plan extensively outlays the path that a victim, an offender or a third party can follow when initiating any of the abovementioned steps through the care and/or the judicial sectors. In practice, these steps will not always be strictly delineated and will not necessarily be completed at the same speed. The aim is that when a case is initiated through either the care or the judicial sector that an effective cooperation between both sectors allows for a strategy in the best interest of the child. Furthermore, cooperation between the justice sector and the victim support sector varies geographically depending upon availability of services. Examples of that are the Care Centers after Sexual Abuse (available in limited zones at a national level) and the Family Justice Centers (present in some regions of Flanders).

- There is an adequate referral between legal and justice professionals and victim support services linked to the criminal justice system. This is the case of the Victim support unit within the police corps and the Victim reception from the Justice Department.

- There seems to be adequate referrals from the justice sector to the Victim Support Department of the Center of General Welfare (CAW). Originally merging small-scale non-profit organisations in Flanders and Brussels, the CAWs provide with a diverse range of assistance and services, offered from a joint organization and policy plan. The Victim support department of the CAW offers emotional support, legal information and practical support for all victims of crime and is always free.

- However, cooperation with certain victim support organisations and the justice system is not optimal. This is the case with the cooperation between justice professionals and the Child Abuse Trust Centers. Some respondents have stated the difficulties in cooperation arising from the fundamentally different approaches of the services in the fight against child abuse.

*"From what I have experienced myself, I've been with the police for 12 years now. There is a tense relationship between VK and the police. (...) they will have victims tell their story and they will always first extensively explore, keeping the legal Justice Department out of the situation. They will work towards mending the situation and they have just a very different mindset to start from, in my experience. We will rarely refer to the VK and sometimes the VK will report a case to the police. But by the time they do that, or it's a really bad case that even they say there's no mediation here or they will have worked on it themselves for months on end before coming to the police." (TAM interviewer)*

- There seems to be a good cooperation between justice professionals and the school system. The school plays an important role in many cases, as is understood to be a middle ground and a neutral space.

In addition, in Belgium, Care Centers after Sexual Abuse as a pilot project in 2017 with the opening of three centers located in the hospitals of UZ Gent, UMC Sint Pieter in Brussels and UMC Liège. The Care Centers functions as an all-in-one specialized care center for victims of sexual abuse where a multidisciplinary team trained in these issues can provide with the necessary care for victims. Victims can reach these centers for medical and psychological care and follow-up, to file a complaint with the police if desired and to get examined in view of initiating a forensic investigation. Support figures who come along with a victim can also contact the forensic nurse for initial care, explanation and advice. Cooperation between CJS professionals and the Care Centers is deemed successful, drawing from our interviews with TAM interviewers, public prosecutors and investigative judges. This is in big part due to the multidisciplinary nature of the team of professionals in the centers and their specific joint training on sexual abuse issues. Due to its success and increasing demand, in 2020 the federal government decided to expand the number of Care Centers after Sexual Violence from three to ten. At the end of 2021, two new centers opened, one in Charleroi in UMC Marie Curie and the other in Antwerp in UZA. Between 2022 and 2023, 5 new centers will open in Roeselare, Leuven, Namur, Genk and Arlon. In the zones where the Care Centers have been implemented, the multidisciplinary cooperation allows victims to benefit from the services of the centers even when they have initiated contact at a police precinct. However, now these centers are not yet equipped with a TAM interviewing room. Therefore, while a complaint can be initiated at the center, the audio visually recorded interview will still take place at the enabled interviewing rooms in the police precincts. Although there is age-specific training of professionals working at the centre, the centre is crime-specific and therefore does not follow a Barnahus model.

The Belgian Family Justice Centers are a form of cooperation between services that work with families where there is repeated violence and a multi-problem situation. It is, therefore, specific to intrafamily violence.

*"If there is a problem with the professional confidentiality, there is a special kind of platform, it is organized by the government, and then we can talk about the families with each other without breaking our professional secrecy. The platform is organized by the Family Justice Centre and they choose somebody to organize the exchange of information and then we try to guide the family to a better living situation. We look for the best person to help and make sure that everyone has their own clear role for the family, so they know our faces and know where to go for a specific problem. (...) it's not everywhere that they have this kind of system. But I*

*think it really is a big improvement to help people. The exchange is really relevant for the process, and normally it's difficult because of the professional secrecy". – (TAM interviewer).*

This model is not widespread or geographically available at a national level. Access to the Family Justice Centers is only available upon referral.

Multidisciplinary partnerships can also take place through a creative collaboration. That is the case of the project coordinated by LUCA School of arts, where a multidisciplinary team of professionals from diverse domains (architects, designers, police officers, child psychiatrists and students) have created a renewed space to offer the child an improved interviewing experience.

In Estonia, multi-agency cooperation includes not only legal and justice professionals, but other professionals as well. This means to understand the entire framework of multi-agency cooperation and the different roles of partners in this network, while it requires also understanding and cooperation of legal and other specialists (child protection, social work, psychologists etc). Similar to Greece and Italy, there is a need for training and improvements regarding:

- Skills and knowledge about importance of multi-agency cooperation and how to form and maintain good collaborative practice and team building;
- Capacity building;
- Resourcing;
- Clear referral system and procedures, useful checklists;
- Coordination and involvement;
- Special attention should paid to partners of multi-agency cooperation, who are without justice and legal background, but important actors in safeguarding minor victims and witnesses of violence;
- Common understanding of status of minor victim and witness of violence including partners who are not legal or justice professionals;
- Partners who work with minor victims and witnesses of violence should have skills and knowledge of trauma-informed, multidisciplinary approaches with understanding vulnerabilities due to developmental stage, cognitive abilities, mental health and age specificity;
- Training on networking and collaborating among professionals and services involved in such cases;
- Existence or absence of holistic approaches that ensure the protection of minors' rights and of continuity of interventions, and

- Protocols, guidelines and coordination.

Regarding the specialized Courts for violence against children, according to the Benchmark protocol, neither of the participating countries has implemented them. However, Spain is at a decisive moment in promoting the creation of these specialized courts since the approval of the Organic Law 8/2021 on the comprehensive protection of children and adolescents against violence (LOPIVI). However, when the victim is a minor, a fragmented system of care is in place, and constant adaptations that do not fit in with the daily procedures of the legal operators must be made. Although specialized courts are not a prerequisite for the adequate protection of children's rights, they do facilitate greater specialization and better supervision and evaluation of its overall functioning. Thus, it is recommended that Belgium, Estonia, Greece, Italy and Spain review nationwide the existence of reference entities that currently have a sufficiently stable structure and specialized training to be able to function as a reference centre. The main objective of these reference entities is to function as a meeting and cooperation point for information about the child victim/witness to be able to coordinate the responses given to them. This therefore requires an individual assessment of the specific needs of the victims as provided for in Directive 2012/29/EU (art. 22 and 23) and allows for the coordination of specific protection measures in time and form. The experience of the partner countries in Youth Courts for juvenile offenders can help in finding analogous approaches to proceedings involving child victims. It is essential to have a national registry of (sexual) violence against children, which includes the following data: type of violence, age, gender, disability, relationship between victim and aggressor, how the violence was detected, resources used by the victim, expert reports and response of the process<sup>67</sup>.

Regarding structures such as CACs and Children's Houses that potentially ensure the multidisciplinary and interagency collaboration, only Estonia has put this measure in practice, since 2017, in different regions. So far, Tallinn, Tartu and Jõhvi, although the service is available for the whole country<sup>68</sup>.

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<sup>67</sup> "Data Collection Register, information sharing and awareness raising: Aggregated and disaggregated data/statistics is collected and shared with relevant stakeholders, including decision-makers, academia, child protection professionals, and the broader public, to create awareness about violence against children and the role of media responses, to facilitate research and to support evidence-based legislation, policy and procedures" (BHQS 10.1).

<sup>68</sup> With a partnership between regional Prefectures of the Police and Border Guard Board, districts' Prosecutor's Office, the Forensic Science Institute, the Children's Mental Health Centre of the Tallinn



## Concluding Remarks

Provided all the aforementioned facts and also the enactment and protection of victims' rights through the relevant legal arsenal, the findings regarding the current treatment of minor victims and witnesses of violence by the CJS indicate gaps in the practical implementation of the law. In the five participating countries there is distance between what is stipulated by the law and what is done in practice, despite the sufficient existing regulations regarding children's rights. As a result, there is an urgent need for steadier application of both the main international and national instruments explicitly addressed to children's rights, evidenced as extremely useful for the protection of minors, including minor victims and witnesses of violence (UNODC & UNICEF, 2015). It is also required to link children's rights with specific interests and measure. This steadier application would be oriented to meeting the needs of:

- ☒ Upholding the 'best interests' of minors;
- ☒ Effectively communicating with them;
- ☒ Ensuring meaningful access to complaints procedures and forms of redress;
- ☒ Increasing their involvement in decision-making;
- ☒ Providing specialized training, especially on forensic interviewing, and ongoing professional development, and
- ☒ Addressing barriers to implementing recommended practices (Beckett & Warrington, 2015).

The reform of the law is also required, as it is considered a key element of achieving significant changes in CJS's approaches. More specifically, the enactment of a solid, comprehensive legal framework that would ensure child - sensitivity within the criminal procedures is essential, since –based on the fundamentality of the law- it would determine how legal and justice professionals' treatment towards minor victims and witnesses of violence (UNICEF, 2020). By this way, professionals would be provided a better understanding of how to put these rights in practice, but also to ensure their fulfillment and move away from the false belief that adaptation measures are linked to the sensitivity of professionals, when in fact these measures are foreseen in their rights. It is important for all legal operators to have a clear understanding of the law and the rights of victims, but above all what these rights entail. It is not enough to know the law regarding the protection from secondary victimization and the obligation of a child-friendly environment. In the end, we have observed that many professionals don't fully grasp the significance and translation of these two concepts in their daily work, or in the best-

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Children's Hospital, the Tartu Sexual Health Clinic, the Tartu Children's Support Centre and local governments.

case scenario, that the minimization of secondary victimization and the presence of child-friendly environments can be achieved to a certain extent (based on the availability of material and human resources). It is important to recognize the child victim as a rights holder and to remember that the absence of adaptations means the denial of access to justice. This includes the need to know: their right to inform the authorities of their situation of violence without the presence of representatives (also facilitating the accessibility of this communication by different means), free legal aid, adapted information (clear and understandable language based on age and developmental stage, and the specific situation of vulnerability) child-friendly environment, care by specialized professionals, etc. Therefore, professionals shall be the ones who enforce children's rights, meaning that knowing all recognized rights in the police phase (the most sensitive one) and in the pre-trial phase is of great importance.

In order to promote children's rights, such as the right to be heard and listened, to be informed, to participate and to decision-making, even more theoretical and practical training, as well as training in child-friendly communication are required in order professionals to be capable of defending these rights. Moreover, since victim's right to information is linked to the right to participation and decision-making, thus specialized adaptations are required. In numerous cases, there are automated responses that do not allow or refuse the victim's participation, and/or they are not properly informed, justifying a protection of the victim. The capability to adjust the information (regarding age, developmental stage, maturity, cultural background, disability, and other circumstances) is a factor to consider. In the initiatives of capacity building, the impact of non-use, or incorrect use of regulatory tools, should be addressed by providing a panoramic view of the process (e.g., knowing the complete journey of the victims and all its possible deviations).

There is a discriminatory element towards child victims that must be overcome with a more in-depth study of their victimization and rights. In Belgium, Greece, Italy and Spain (but not in Estonia<sup>69</sup>), there are special courts when the offender is a minor, on the understanding that the adult system (ordinary procedure) does not respond to their specific rights. However, when

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<sup>69</sup> "There are neither special juvenile courts nor family courts, these criminal cases are processed in the general court system". There are Juvenile Committees: "an alternative, non-judicial organ dealing with young offenders. Juvenile committees are formed by county governors and work within the limits of local cities or rural municipalities. Members of these committees are experts in the areas of education, social welfare and health care, police operations, and probation". See at: Strompl, J., & Markina, A. (2017). Children's Rights and the Juvenile Justice System in Estonia. *Juridica Int'l*, 25, 66. <https://doi.org/10.12697/JI.2017.25.07>

the victim is a minor, a fragmented system of care is used, in which constant adaptations must be made that do not fit in with the daily procedures of the legal operators. This means an "extra effort" for them, which means that other necessary adaptations (disability, culture, institutionalized victims, and gender) are completely overlooked. A better structure specialized in children would make it possible to better reach this double/triple/quadruple specialization when necessary. This does not mean that these other specializations are "second rate", but that general adaptations applicable to all minors can be found.

While conducting the interviews with forensic psychologists, when they are available, different professionals stated the complexity of interviewing pre-schoolers, children with disabilities and cases where there were multiple victims from the same perpetrator. In fact, some were really keen on knowing in which ways other interviewers (national and international level) face these cases (e.g., tips, good practices). We also are aware that not everything can be protocolized, as each case is unique. As a consequence, specific protocols and guidelines, as well as corresponding training on these issues are required. In addition, in cases there are no forensic interviewers or other professionals come in contact with minor victims/witnesses of abuse establishment of new legislations and/or steadier application of law, increase of funding, hiring of personnel and resources and specialized training on forensic interviewing and child issues are required to ensure the avoidance of secondary traumatization. Furthermore, there is a considerable workload in the criminal justice system, so protocols and guidelines should be straightforward and focused on practice to ensure its day-to-day implementation. These protocols should include the good practices, the necessary baselines concerning the justice process, the evaluation of the child victim (comprehension capability, emotional state), needs and interest, provision of support services, appropriate conditions, settings for the interview. At this point, it is worth mentioning that adequate and specialized training was rated by all professional participating in ENCLAVE Project's research as of great significance; an on going need and, in many cases, as a huge gap. As stated by the majority of the professionals the spaces for feedback and supervision are also scarce and usually informal. We would like to ascertain that *"training combined with feedback and supervision on a regular basis seems to be required to entail enduring improvements in interviewer behavior"* (Lamb et al., 2007 in Korkman et al., 2014). As literature research suggests, we became aware during the interviews that: *"Judges do not, as a rule, receive expert feedback on their verdicts, and objective knowledge regarding ground truth in CSA cases is rare, making correct learning from experience virtually impossible"*<sup>15</sup>.

More specifically, among professionals involved in child abuse cases there is lack of fundamental knowledge urging the need for training on the existing legislation; the

professional main principles and values, and how these impinge upon practice; the phenomenon of child abuse and the impact of trauma; the characteristics of disclosure; the characteristics of secondary victimization and how wellbeing is affected when the best interest of the child is not maintained, and the recognition of the potential risks when engaging with the CJS.

There is also lack and thus, need for training on fundamental skills, such as the basic counselling skills; respectfully dealing with victims; the expression of sensitivity, empathy and compassion; the rapport building, reduction of anxiety, questioning styles and willingness to let young people have a supporter present; the cooperation and collaboration with relevant professionals and services; the professional boundaries, blind spots, stereotypes and prejudices; the role description; asking for help, and the supervision.

In addition, limited, in most of the cases, is the knowledge of minors' characteristics and the corresponding skills. Thus, training is needed on the topics regarding the interactions with children; the acknowledgment of children's resilience and strengths; the memory, credibility and suggestibility of children; the developmental stages of children; the special needs of children with disabilities, with intellectual disabilities; the effects of culture; the equitable responses to the gender; the attitudes and beliefs of professionals towards children (e.g. being considered as 'problematic', 'vulnerable' etc.) and ways of addressing them; the acknowledgment of the negative emotional, psychological, behavioral and educational consequences of stigma and the feelings of shame and guilt resulting from its internalization, and the methods of tackling stigmatization.

Last but not least, specialized knowledge and skills are also needed as part of specialized training focused on the recognition of child abuse; the safety planning; the acknowledgement, recognition of signs, prevention and/ or making amends for secondary victimization; the purpose of the child forensic interview; the models and the protocols of the forensic interview; the best practices available for interviewing minors in cases of alleged abuse; the establishment of valid and reliable information from children; the use of practical tools, such as dolls or personality tests; the forensic interview's principles, basic rules and considerations; the structure and stages of the forensic interview; the recognition of true and false allegations; the avoidance of traumatizing attitudes or modes of questioning, such as treating victims with disbelief, victim blaming, inappropriate and insensitive behavior or language etc.; the balance in interview pace and format between searching out the factual nature of recent events, and providing a secure and sensitive environment in which the child can be open and protected from overwhelming feelings of guilt and self-blame and reactivation of trauma responses, and

the balance between semi-structured interviews for eliciting factual information and procedures and skills in listening empathically and encouraging response (Beckett & Warrington, 2015. Ben-Arieh & Windman, 2007. CoE, 2006. Davidson et al., 2006. Reimer, 2015. Katz & Kosher, 2020. Roque et al., 2014. UNICEF, 2021. UNICEF, 2020. UNODC, 2019. UNODC & UNICEF, 2015. Van Niekerk & Coetzee, 2020. Wilson et al., 2020).

According to professionals' needs, training must be evidence-based, very practical, regularly reviewed and updated; while accompanied by ongoing support and supervision that acknowledges the challenge and impact of this work (Beckett & Warrington, 2015. UNICEF, 2020).

Finally, regarding multi-agency cooperation, research indicates that there is a need for corresponding policies, protocols and guidelines regarding cases of minor victims and witnesses of violence, as well as for corresponding training for professionals and services involved on how to effectively create networks and collaborate (Davidson et al., 2006. Gekoski et al., 2016. Roque et al., 2014. UNICEF, 2020). Furthermore, promotion and adoption of a multidisciplinary approach that would ensure the protection of the rights of the child is required; with strong links between the CJS and the social sector; Along with formal and effective coordination mechanisms with adequate geographic coverage (Davidson et al., 2006. Gekoski et al., 2016. Roque et al., 2014. UNICEF, 2020). As a consequence, there is a need for stronger links and a holistic approach promoting minor victims and witnesses' of violence recovery, encompassing a continuum of interventions, namely before, during and after criminal procedures (UNICEF, 2020).



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